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The Annotated School Laws

OF THE State of Colorado

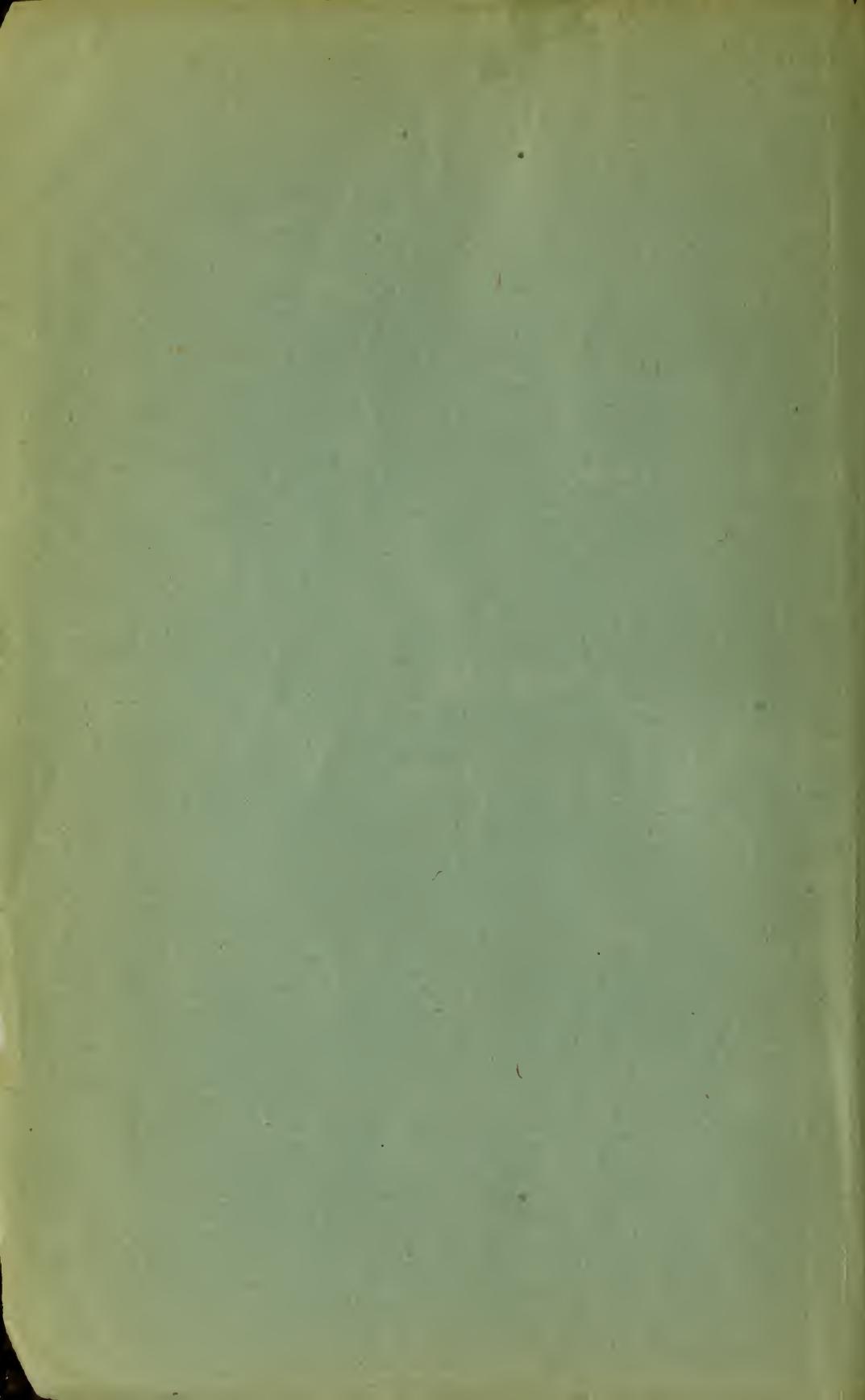
AS AMENDED TO DATE

Sept. 1, 1905



1905

THE SMITH-BROOKS COMPANY, STATE PRINTERS
DENVER, COLORADO



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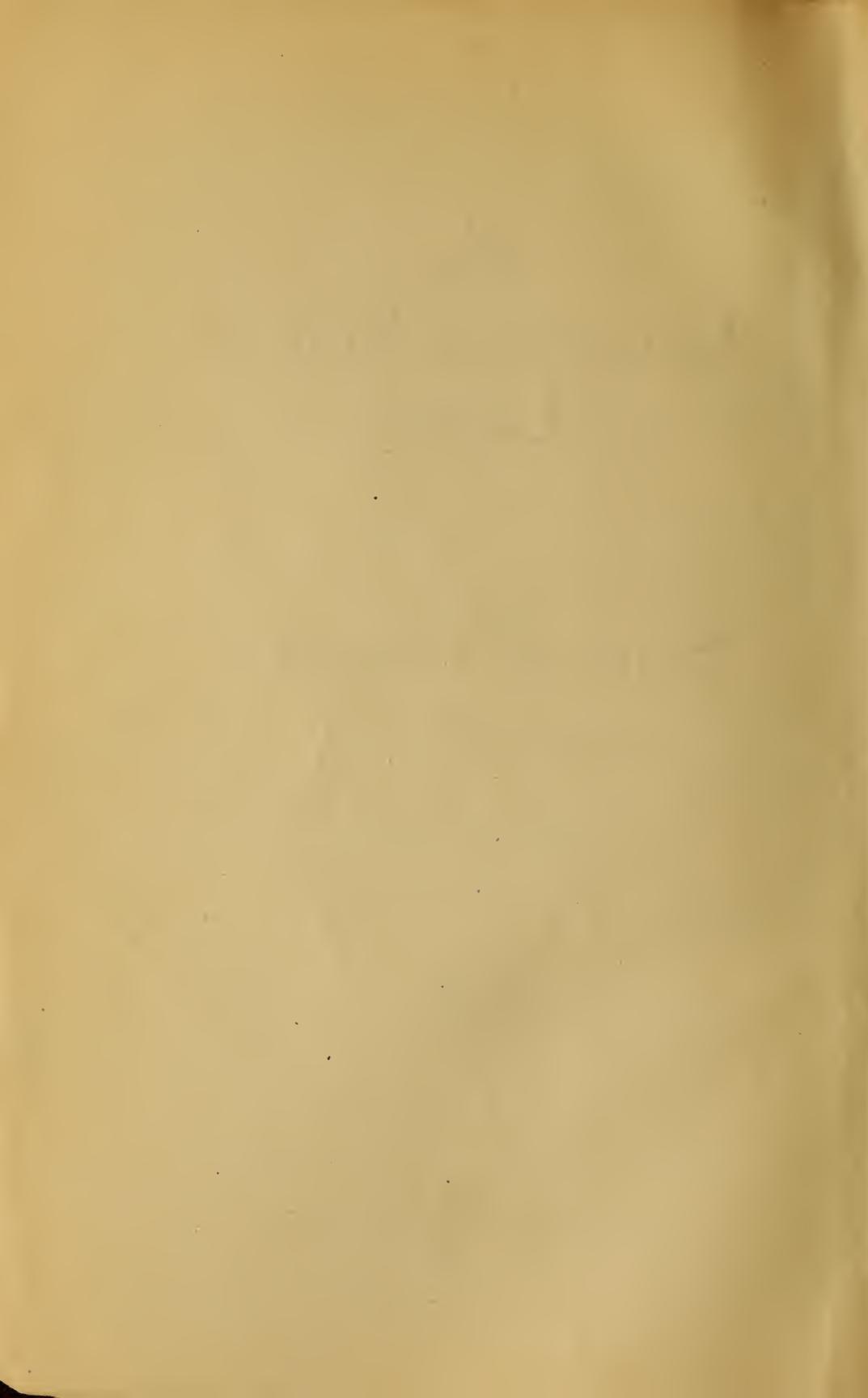
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N O T E

This book contains the complete school law of the state of Colorado, revised to date, and all of the provisions of the enabling act and constitution of the state pertaining to public schools.

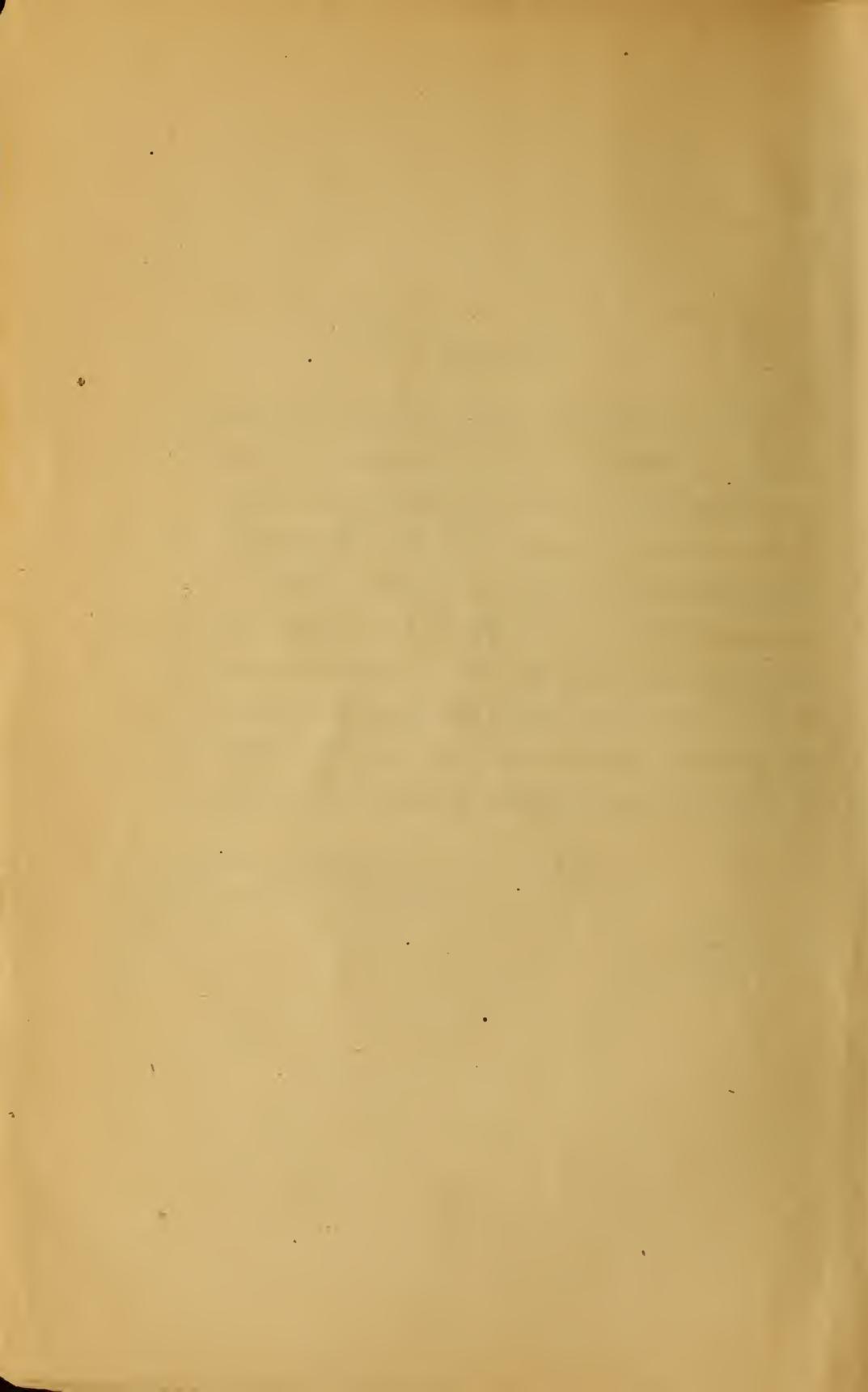
On account of the numerous revisions of the school law, the repeal of several of the original acts comprising the same and the enactment of others, and the difficulty experienced by many in applying the decisions of this office to the particular provisions of the law under consideration, I have deemed it advisable in this edition to rearrange the sections under appropriate headings, and to classify and place the decisions in reference thereto under each section.

KATHERINE L. CRAIG,

Superintendent of Public Instruction.

Denver, Colorado,

September 1, 1905.



Provisions of the Enabling Act *and* Constitution of the State of Colorado Pertaining to Public Schools

THE ENABLING ACT.

7. Lands for schools.

The sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of congress, other lands equivalent thereto in legal subdivisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said state for the support of common schools.

10. Seventy-two sections for university.

That, seventy-two other sections of land shall be set apart and reserved for the use and support of a state university, to be selected and approved in manner as aforesaid, and to be appropriated and applied as the legislature of said state may prescribe for the purpose named and for no other purpose.

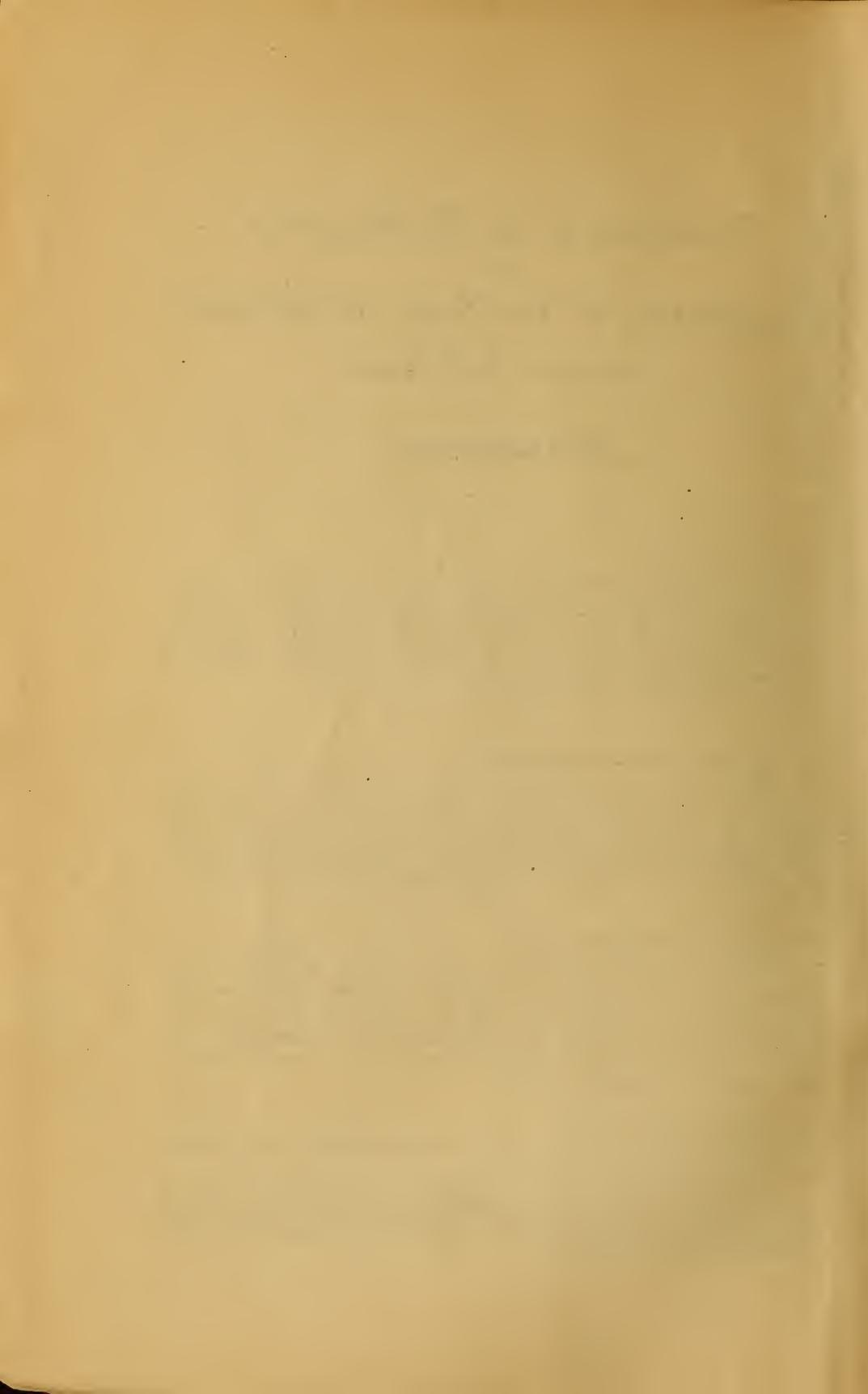
14. School lands—how sold—price.

That the two sections of land in each township herein granted for the support of common schools, shall be disposed of only at public sale, and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school fund, the interest of which is to be expended in the support of common schools.

15. Mineral lands excepted.

That all mineral lands shall be excepted from the operation and grants of this act.

NOTE—This section should be construed in connection with section 7, *supra*, in that if sections 16 or 36 in any township are mineral in character, other sections are selected by the state in lieu thereof, and when any lands are selected in lieu of sections 16 and 36, or portions thereof, such selected land is known as "Indemnity Land."



CONSTITUTION.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

1. Term of office—residence—duties—seat of government.

The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, attorney-general, and superintendent of public instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election; *Provided*, that the terms of office of those chosen at the first election held under this constitution shall begin on the day appointed for the first meeting of the general assembly. The officers of the executive department, except the lieutenant-governor, shall, during their term of office, reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this constitution or by law.

* * * * *

3. State officers—election—returns—canvass—contests.

The officers named in section one of this article shall be chosen on the day of the general election, by the qualified electors of the state. The returns of every election for said officers shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall immediately, upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of the members of both houses of the general assembly, who shall, for that purpose, assemble in the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two houses, on joint ballot. Contested elections for said offices shall be determined by the two houses, on joint ballot, in such manner as may be prescribed by law.

4. Eligibility—first election—thereafter—age—residence.

No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction, unless he shall

have attained the age of thirty years. * * * At the first election under this constitution, any person being a qualified elector at the time of the adoption of this constitution, and having the qualifications above herein prescribed for any one of said offices, shall be eligible thereto; but thereafter no person shall be eligible to any one of said offices, unless, in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have resided within the limits of the state two years next preceding his election.

* * * * *

6. Governor appoint officers—vacancy—election—senate confirms.

* * * If the office of auditor of state, state treasurer, secretary of state, attorney-general, or superintendent of public instruction, shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. * * *

* * * * *

8. Governor demands information from officers.

The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. * * *

* * * * *

16. Officers keep account of moneys—semi-annual reports.

An account shall be kept by the officers of the executive department and of all public institutions of the state, of all moneys received by them severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the governor, under oath.

17. Officers executive department—biennial report—governor transmit.

The officers of the executive department, and of all public institutions of the state, shall, at least twenty days preceding each regular session of the general assembly, make full and complete

reports of their actions to the governor, who shall transmit the same to the general assembly.

* * * * *

19. Officers receive salary—fees paid into treasury.

The officers named in section 1 of this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms. It shall be the duty of all such officers to collect in advance all fees prescribed by law for services rendered by them severally, and pay the same into the state treasury.

20. Superintendent of public instruction, *ex officio* librarian.

The superintendent of public instruction shall be *ex officio* state librarian.

* * * * *

ARTICLE VII.

SUFFRAGE AND ELECTIONS.

1. Citizenship.

Every person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections: He or she shall be a citizen of the United States, and shall have resided in the state twelve months immediately preceding the election at which he offers to vote, and in the county, city, town, ward or precinct, such time as may be prescribed by law:

NOTE—Section 56 provides, in addition to above, that such person shall reside in this state one year, immediately preceding the election at which he offers to vote; in the county, ninety days; in the city or town, thirty days; and in the ward or precinct, ten days; and section 93 provides that to vote at school election, the elector must live in the school district thirty days.

Wife of alien when naturalized.

1. The wife of an alien becomes naturalized upon the naturalization of her husband, and is a citizen, as the term is used in the School Law.

2. Universal suffrage.

The general assembly shall, at the first session thereof, and may at any subsequent session, enact laws to extend the right of suffrage to women of lawful age, and otherwise qualified according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

* * * * *

4. Absence in civil or military service.

For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poorhouse or other asylum, nor while confined in public prison.

5. Privilege of voters.

Voters shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

6. Electors only eligible to office.

No person except a qualified elector shall be elected or appointed to any civil or military office in the state.

Qualification of elector.

1. In addition to other qualifications, a person to be eligible to the office of county superintendent must have resided in the county at least one year preceding his election.
2. The length of residence required in Colorado to constitute eligibility to the office of school director is twelve months.
3. The fact that two members of a school board are of one family, and the further fact that another member became a resident of the district for the sole purpose of becoming an officer, so long as he is an actual resident, would not affect the regularity of the organization of the board.
4. There is nothing in the laws of Colorado to prevent a person who fills the office of district judge from also filling that of school director, the two offices belonging to an entirely different class.
5. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

10. Prisoners disqualified—restoration—pardon or full service.

No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

ARTICLE VIII.

STATE INSTITUTIONS.

1. Charitable institutions established.

Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the state, in such manner as may be prescribed by law.

* * * * *

5. Territorial institutions become state—transfer.

The following territorial institutions, to-wit: The University at Boulder, the Agricultural College at Fort Collins, the School of Mines at Golden, the Institute for the Education of Mutes at Colorado Springs, shall, upon the adoption of this constitution, become institutions of the state of Colorado, and the management thereof subject to the control of the state, under such laws and regulations as the general assembly shall provide; and the location of said institutions, as well as all gifts, grants and appropriations of money and property, real and personal, heretofore made to said several institutions, are hereby confirmed to the use and benefit of the same respectively; *Provided*, this section shall not apply to any institution, the property, real or personal, of which is now vested in the trustees thereof, until such property be transferred by proper conveyance, together with the control thereof, to the officers provided for the management of said institution by this constitution, or by law.

ARTICLE IX.

EDUCATION.

1. Board of education—members—president.

The general supervision of the public schools of the state shall be vested in a board of education, whose powers and duties shall be prescribed by law; the superintendent of public instruction, the secretary of state and attorney general shall constitute the board, of which the superintendent of public instruction shall be president.

NOTE—Superintendent of public instruction an officer of executive department. Art. IV, Sec. 1.

2. Qualifications of superintendent. Art. IV, Sec. 4.

3. *Ex officio* state librarian. Art. IV, Sec. 20.

2. Free schools—one in each district—three months.

The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools through out the state, wherein all residents of the state between the ages of six and twenty-one years may be educated gratuitously. One or more public schools shall be maintained in each school district within the state, at least three months in each year; any school district failing to have such school shall not be entitled to receive any portion of the school fund for that year.

3. School fund inviolate—state treasurer custodian.

The public school fund of the state shall forever remain inviolate and intact; the interest thereon shall only be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The state treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The state shall supply all losses thereof that may in any manner occur.

4. County treasurer collect and disburse—warrants.

Each county treasurer shall collect all school funds belonging to his county, and the several school districts therein, and disburse the same to the proper districts upon warrants drawn by the county superintendent or by the proper district authorities, as may be provided by law.

5. School fund—of what consists.

The public school fund of the state shall consist of the proceeds of such lands as have heretofore been, or may hereafter be, granted to the state by the general government for educational purposes; all estates that may escheat to the state; also all other grants, gifts or devises that may be made to this state for educational purposes.

When land would escheat to the state and become part of the school fund.

1. If a person dies intestate and has no heirs, if he has lands and owes no debts, or if there is sufficient other property to pay debts so as to have the land intact, upon proper procedure in court to determine the fact that there are no heirs, then the land would escheat to the state and become part of the school land or fund. In case any funds remain in the hands of an administrator after debts are paid, and there are no heirs, the money goes into the county treasury subject to the call of any heirs who may appear.

6. County superintendent—commissioner of lands.

There shall be a county superintendent of schools in each county, whose term of office shall be two years, and whose duties, qualifications and compensation shall be prescribed by law. He shall be *ex officio* commissioner of lands within his county, and shall discharge the duties of said office under the direction of the state board of land commissioners, as directed by law.

7. Aid to sectarian schools, churches forbidden.

Neither the general assembly, nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money, or other personal property, ever be made by the state, or any such public corporation, to any church, or for any sectarian purpose.

Prohibition of the use of public school money for the teaching of sectarian doctrines.

1. The Constitution of Colorado prohibits the use of public school money for the teaching of sectarian tenets or doctrines. It is therefore unlawful for a board of directors to require a teacher to devote any part of any school day to religious instruction.

8. Religious test forbidden—sectarian tenets—race, color.

No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

NOTE—See section 198.

Directors determine use of bible in schools.

1. Neither the constitution of the state nor the statutes touch directly the reading of the Bible or prayer or any other form of religious or devotional exercises, except to forbid that observance or participation shall be compulsory. The spirit of the constitution permits religious exercises in school if nothing sectarian is introduced and the trustees do not object. The laws of the different states bearing on this point differ. In Iowa "neither the electors, the board of directors nor the sub-directors can exclude the Bible from any school in the state." In Missouri, on the other hand, "the directors may compel the reading of the Bible." In

Dakota "the Bible may be read in school not to exceed ten minutes daily, without sectarian comment." In 1869 the Cincinnati board of education forbade the reading of the Bible in the public schools of that city. An appeal was taken to the courts, and in 1870 the superior court of Cincinnati decided against the board of education. In 1873 the supreme court of Ohio reversed this judgment and sustained the board of education. In delivering their opinion the judges "held that the management of the public schools being under the exclusive control of directors, trustees and boards of education," it rested with them solely to determine "what instruction should be given and what books should be read therein."

2. The law of Colorado does not specify concerning the reading of the Bible in the public schools, the school boards of the state having the right to specify as to what shall be the practice in the matter.

9. **Board of land commissioners—members—powers.**

The governor, superintendent of public instruction, secretary of state and attorney general shall constitute the state board of land commissioners, who shall have the direction, control and disposition of the public lands of the state, under such regulations as may be prescribed by law.

NOTE—As to who constitutes board of land commissioners, see L. '05, page 319, section 1; R. S. L., section 162.

10. **Public lands—location—sale—disposal.**

It shall be the duty of the state board of land commissioners to provide for the location, protection, sale or other disposition of all the lands heretofore, or which may hereafter, be granted to the state by the general government, under such regulations as may be prescribed by law; and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the general assembly granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition, of such lands, shall be diminished, directly or indirectly. The general assembly shall, at the earliest practicable period, provide by law that the several grants of land made by congress to the state shall be judiciously located and carefully preserved and held in trust, subject to disposal, for the use and benefit of the respective objects for which said grants of land were made; and the general assembly shall provide for the sale of said lands from time to time; and for the faithful application of the proceeds thereof in accordance with the terms of said grant.

11. **Compulsory education.**

The general assembly may require, by law, that every child of sufficient mental and physical ability, shall attend the public school, during the period between the ages of six and eighteen

years, for a time equivalent to three years, unless educated by other means.

NOTE—See Kindergarten Act, section 147

12. University—regents—election.

There shall be elected by the qualified electors of the state, at the first general election under this constitution, six regents of the university, who shall immediately after their election be so classified, by lot, that two shall hold their office for the term of two years, two for four years, and two for six years; and every two years after the first election there shall be elected two regents of the university, whose term of office shall be six years. The regents thus elected, and their successors, shall constitute a body corporate, to be known by the name and style of "The Regents of the University of Colorado."

NOTE—The regents are a body corporate. [M. A. S., 4587.]

13. Regents elect president—powers.

The regents of the university shall, at their first meeting, or as soon thereafter as practicable, elect a president of the university, who shall hold his office until removed by the board of regents for cause; he shall be *ex officio* a member of the board, with the privilege of speaking, but not of voting, except in cases of a tie; he shall preside at the meetings of the board, and be the principal executive officer of the university, and a member of the faculty thereof.

14. Regents control university—funds.

The board of regents shall have the general supervision of the university, and the exclusive control and direction of all funds of, and appropriations to the university.

15. School districts—board of education.

The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors, to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

16. Text books—general assembly nor board shall prescribe.

Neither the general assembly nor the state board of education shall have power to prescribe text books to be used in the public schools.

ARTICLE X.

REVENUE.

* * * * *

5. Exemption—lots—buildings for worship—schools.

Lots, with the buildings thereon, if said buildings are used solely and exclusively for religious worship, for schools, or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

Church property not taxable—when.

1. In case a district rents a class room from one of the churches of a town for school purposes, such renting would not make the church property taxable.

* * * * *

10. Corporations subject to tax.

All corporations in this state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

* * * * *

13. Making profit on public money felony.

The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

School board can not loan district money.

1. A school board can not legally loan the money of the district.

* * * * *

ARTICLE XI.

PUBLIC INDEBTEDNESS.

1. Lending or pledging credit of state, county, city, etc., forbidden.

Neither the state, nor any county, city, town, township or school district, shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to or in aid of, any person,

company or corporation, public or private, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any person, company or corporation, public or private, in or out of the state.

2. Aid to corporations—interest in—by state, county, city—joint ownership.

Neither the state nor any county, city, town, township or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in, any corporation or company, or a joint owner with any person, company or corporation, public or private, in or out of the state, except as to such ownership as may accrue to the state by escheat or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the state, or to any county, city, town, township or school district, or to either or any of them, jointly with any person, company or corporation, by forfeiture or sale of real estate for non-payment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them, under execution in cases of fines, penalties or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

* * * * *

7. Loans for school buildings—vote—qualification.

No debt by loan in any form shall be contracted by any school district for the purpose of erecting and furnishing school buildings, or purchasing grounds, unless the proposition to create such debt shall first be submitted to such qualified electors of the district as shall have paid a school tax therein, in the year next preceding such election, and a majority of those voting thereon shall vote in favor of incurring such debt.

Debt incurred must be by a vote of electors.

1. The constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness can not be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building.

* * * * *

9. This article not affect prior obligations.

Nothing contained in this article shall be so construed as to either impair or add to the obligation of any debt heretofore contracted by any county, city, town, or school dis-

trict, in accordance with the laws of Colorado territory, or prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose which may have been, according to said laws, submitted to a vote of the qualified electors of any county, city, town or school district, before the day on which this constitution takes effect.

ARTICLE XII.

OFFICERS.

* * * * *

4. Embezzlement disqualifies from office.

No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subordination of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this state.

* * * * *

8. Civil officers—oath.

Every civil officer, except members of the general assembly and such inferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Colorado, and to faithfully perform the duties of the office upon which he is about to enter.

9. Oaths, where filed—with whom.

Officers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

10. Refusal to qualify—vacancy.

If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

11. Vacancy—term of officer elected to fill.

The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

12. Duel—challenge—disqualifies for office.

No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of the state to fight a duel, shall hold any office in the state.

ARTICLE XIV.**COUNTIES.****1. Former counties, counties of state.**

The several counties of the territory of Colorado, as they now exist, are hereby declared to be counties of the state.

* * * * *

7. Officers' compensation.

The compensation of all county and precinct officers shall be as provided by law.

8. Clerk and recorder—sheriff, coroner, treasurer, etc.—election.

There shall be elected in each county at the same time at which members of the general assembly are elected, commencing in the year nineteen hundred and four, one county clerk, who shall be *ex officio* recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor; one county assessor; and one county attorney, who may be elected, or appointed, as shall be provided by law; and such officers shall be paid such salary or compensation, either from the fees, perquisites and emoluments of their respective offices, or from the general county fund, as may be provided by law. The term of office of all such officials that expire in January, 1904, is hereby extended to the second Tuesday in January, A. D. 1905.

9. Vacancies—appointments—governor—county commissioners.

In case of a vacancy occurring in the office of county commissioner, the governor shall fill the same by appointment; and in the case of a vacancy in any other county office, or in any precinct office, the board of county commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

10. Elector only eligible.

No person shall be eligible to any county office unless he be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

Qualifications to be eligible to office.

1. In addition to other qualifications, a person to be eligible to the office of county superintendent must have resided in the county at least one year preceding his election.

Not a taxpayer does not disqualify.

2. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

* * * * *

15. Classifying counties as to fees.

For the purpose of providing for and regulating the compensation of county and precinct officers the general assembly shall by law classify the several counties of the state according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein for services to be performed by them respectively; and where salaries are provided, the same shall be payable only out of the fees actually collected in all cases where fees are prescribed. All fees, perquisites and emoluments above the amount of such salaries shall be paid into the county treasury.

Qualification—ceases to be director when.

1. The law requires that a person who desires to be a candidate for a school director must reside in the district, and it necessarily follows that in order to remain such director, after election he must continue to reside therein, and when he permanently removes from the district, he ceases at that instant to be a director.

Annotated School Laws

ALCOHOLIC DRINKS AND NARCOTICS.

1. Nature and effect of alcoholic drinks and narcotics be taught.

That the nature of alcoholic drinks and narcotics, and special instructions as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the public schools of the state, and shall be studied and taught as thoroughly, and in the same manner as other like required branches are in said schools, by the use of text books, designated by the board of directors of the respective school districts, in the hands of pupils where other branches are thus studied, in said schools, and by all pupils in all said schools throughout the state. [M. A. S., 4046.]

Requires study of hygiene and physiology in schools.

1. The act providing for the study of the nature of alcoholic drinks and narcotics, and their effect upon the human system, requires the study of physiology and hygiene in all the public schools throughout the state.

2. Officers enforce provisions of act—penalty for failure.

That it shall be the duty of the proper officers in control of any school, described in the foregoing section to enforce the provisions of this act; and any such officer, school director, committee, superintendent or teacher, who shall refuse, fail or neglect to comply with the requirements of this act, or shall neglect, refuse or fail to make proper provisions for the instruction required, and in the manner specified by the first section of this act, for all pupils in each and every school under his or her jurisdiction shall be removed from office, and the vacancy filled as in other cases. [M. A. S., 4047.]

NOTE—Vacancies, section 70.

APPEALS.

3. From district board to county superintendent.

Any person aggrieved by any decision or order of the district board of directors, in matter of law or fact, may, within thirty days after the rendition of such decision, or making of such order, appeal therefrom to the county superintendent of the proper county. [M. A. S., 4049.]

4. Affidavit.

The basis of the proceeding shall be an affidavit filed by the party aggrieved, with the county superintendent, within the time for taking the appeal. [M. A. S., 4050.]

5. Contents of affidavit.

The affidavit shall set forth the errors complained of in a plain and concise manner. [M. A. S., 4051.]

6. Superintendent notify secretary—transcript.

The county superintendent shall, within five days after the filing of such affidavit in his office, notify the secretary of the proper district, in writing, of the taking of such appeal, and the latter shall, within ten days after being thus notified, file in the office of the county superintendent a complete transcript of the record and proceedings relating to the decision complained of, which shall be certified to be correct by the secretary. [M. A. S., 4052.]

7. Notice to parties.

After the filing of the transcript, aforesaid, in his office, he shall notify, in writing, all persons adversely interested, of the time and place where the matter of the appeal will be heard by him. [M. A. S., 4053.]

8. Hearing appeal—oaths.

At the time thus fixed for hearing, he shall hear testimony for either party, and for that purpose may administer oaths, if necessary, and he shall make such decision as may be just and equitable, which shall be final, unless appealed from, as herein-after provided. [M. A. S., 4054.]

9. Appeal from county superintendent to state board of education.

"Any person or district board aggrieved by any decision or order of the county superintendent in a matter of law or fact, may, within thirty days after the rendition of such decision or making of such order, appeal therefrom to the state board of Education, in the same manner as provided in this act for taking appeal from the district board to the county superintendent as nearly as applicable. In case of an appeal, where a trial has been had before the county superintendent and a decision rendered, the state board of education shall examine a transcript of such proceeding and render a decision therefrom, but no new testimony shall be admitted. In other cases of appeal the said board may require of the parties such papers and documents as may be thought necessary, they may issue subpoenas and compel witnesses to attend and testify, and the said board shall have the power to administer oaths through its president. The decision of said board, or a majority of said board, shall be rendered by the president, and such decision, when made, shall be final. When an applicant for a certificate at a regular examination shall feel aggrieved at the decision of the county superintendent, and shall appeal to the state board of education the questions used and answers given shall be examined by the said board, and if the decision of the county superintendent be reversed, the state board of education shall issue to the appellant a certificate of such grade as the answers shall warrant; *Provided*, That a good moral character and success as a teacher be shown. [3 Mills (Rev.), 4055.]

Appeal—when, how and by whom taken.

1. An appeal to the state board of education does not lie when made by any one other than a person or board of directors aggrieved by an order or decision of the county superintendent.
2. Any person or district board aggrieved by any decision of the county superintendent in a matter of law or fact, may, within thirty days of the rendition of such decision, appeal to the state board of education, full details in regard to such appeal being given.
3. The remedy against unjust orders of the county superintendent is an appeal to the state board of education.
4. It would not be considered good practice to allow one county superintendent to overrule the decision of the former county superintendent upon the same point. The proper procedure in this matter would have been for the persons making the protest to have filed it in writing with the county superintendent and then appeal from his decision to the state board of education in accordance with section 9 of the Annotated School Laws. However, as there is no record in your office of this protest having been made to the former county superintendent, it would be proper for you at this time to receive a written protest in regard to the same matters and pass upon the same, as in such case you would not be considered as passing upon the matter decided by a former superintendent.

5. - The appeal should be made to the county superintendent within thirty days after the decision of the arbitration committee (section 86). and the basis of the proceeding shall be according to section 4 and section

5, School Law. It is only after the decision of the county superintendent that an appeal may be made therefrom to the state board of education.

Appeal from grading examination papers.

6. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county. This is mere matter of comity, and is not sanctioned by law. Therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue a certificate thereon, the board of education has no other course than to dismiss the appeal.

7. In case of appeal from the decision of county superintendent to the state board of education by an applicant for certificate at a regular examination, the certificate, if any, issued to said applicant upon such examination, should accompany the papers sent to the state board.

8. Except in the case of a formally taken appeal from the action of a county superintendent in refusing to grant a certificate, the state board of education has no authority to pass upon the papers presented by an applicant at a teachers' examination.

May continue school during pendency of appeal.

9. A person holds a certificate that expires September 8. He begins school under contract on September 1. He fails to obtain a certificate in the examination held on August 29-30, and appeals to the state board of education. Held, that he may continue his school during the pendency of an appeal.

State board may order certificate issued.

10. The state superintendent has no authority to grant a certificate to teach except when directed to do so by a vote of the state board of education in cases of appeal and of state examination.

Appeal from change of boundary.

11. In the absence of a showing to the contrary, it will be presumed that the county superintendent complied with the law in hearing and determining the appeal, and therefore that the change of boundary was properly made, but even in the absence of such showing, as these two districts have continued to exercise undisputed the prerogatives and enjoy the privileges of legally formed districts for a period of nearly twelve years, they will now be considered legally formed districts.

10. No judgment for money.

Nothing in this act shall be so construed as to authorize either the county superintendent or the state board to render a judgment for money; neither shall they be allowed any other compensation than is allowed by law. All necessary postage must first be paid by the party aggrieved. [M. A. S., 4056.]

BONDS.

SCHOOL DISTRICT BONDS.

11. Question of bonded debt submitted to voters—qualifications of voters—limitation of debt.

On the petition of twenty legal voters of any school district, the secretary of said district shall give notice not less than twenty days before any regular or special meeting held under the provision of this chapter, that the question of contracting a bonded debt for the purpose of erecting and furnishing school buildings, or purchasing ground, or for funding floating debts, will be submitted to such qualified voters of the district as have paid a school tax therein in the year next preceding the said meeting; *Provided*, That it shall be lawful for districts of the first and second class to hold special meetings for this purpose, in the same manner as is provided in this chapter for districts of the third class. Any person offering to vote may be challenged by any legally qualified elector of the district, and any one of the judges of election shall thereupon administer to the person challenged an oath, as follows: "You do swear (or affirm) that you are a citizen of the United States, or that you have declared your intention to become such; that you have resided in the state of Colorado six months immediately preceding this election; that you are twenty-one years of age; that you have resided in this district thirty days next preceding this election, and that you have paid a school tax within this school district during the past year, and that you have not voted at this election, so help you God (or under the pains and penalties of perjury)." If he shall refuse to take such oath or affirmation, his vote shall be rejected. The electors aforesaid shall first agree, by a majority vote, on the amount of indebtedness to be created, if any (but in no case shall the aggregate amount of bonded indebtedness of any school district exceed three and one-half per cent. of the assessed value of the property of such district), and shall then proceed to vote by ballot "For the bonds," or "Against the bonds," and the ballot box for this purpose shall be kept open, as provided in section forty-four of this act; and if it appear that a majority of all the votes cast are "For the bonds," the board of directors, as soon as practicable, shall issue coupon bonds of the district, bearing interest not exceeding eight per cent. per annum, payable semi-annually, and redeemable at the pleasure of the district, after five years, and payable fifteen years from date, the principal and interest payable at the office of the

treasurer of the county in which the said district may be situated, or the interest may be made payable in the city of New York, at the option of the holders thereof, and the cancelled coupons shall be at the disposal of the district board. [M. A. S., 4057.]

NOTE—Section 44 above referred to is section 92 herein.

NOTE—Refunding bonds, sections 20 and 23.

Petition for meeting to vote bonds—number voters—notice.

1. The petition asking that a meeting be called for the purpose of voting school district bonds must be signed by not less than twenty legal voters. A majority of the qualified electors assembled at such meeting may vote bonds; *Provided*, "That such qualified electors shall have paid a school tax in such district for the year next preceding such election."

2. The law does not require that the twenty voters who sign the petition shall be taxpayers, although only those who are taxpayers can vote upon the question of bonding the district.

3. A special meeting of the voters of a district is legal only when twenty days' notice of such meeting is given.

4. It is not legal to vote upon the matter of issuing bonds at a special meeting unless said special meeting has been called upon petition of twenty legal voters of the school district, requesting that the question of contracting a bonded debt for the purpose of erecting and furnishing a school building, for purchasing ground or for funding floating debts will be submitted, and due notification must be given.

5. The law makes no provision by which a school district can legally issue bonds if there is not the required number of voters specified by law residing in the district to vote upon the question of issuing bonds.

Qualifications for voting on bonds.

6. It is not necessary that one should be a taxpayer to vote on the question as to where a school is to be held or a school building is to be erected. Any legally qualified elector has a right to vote on all questions save those relating to bonded indebtedness.

7. If a person has paid any one year's school tax during the year immediately preceding the election regarding the question of refunding bonds, and is otherwise qualified, he is entitled to vote at such election.

8. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matter of bonds, which requires a voter to be also a taxpayer.

9. At a special meeting held for the purpose of voting upon the question of issuing bonds, the election judges have the right to require every one to swear in his vote, whether the vote is challenged or not, unless the voter presents his tax receipt.

If real estate is in the names of both man and wife, even though the tax receipt shows but one name, both are legal voters.

If a man has given his wife part of his real estate, but no deed has yet been given to the wife, even though she has paid taxes upon the same, she has not the right to vote.

A person who has been assessed for taxes, but has as yet paid no taxes in the district, would not be entitled to vote.

If property is in the wife's name, but the tax receipt is in the husband's name; the wife would have the right to vote, and not the husband.

10. Any person not a taxpayer, but otherwise a legal voter, is entitled to vote at a regular or special district school meeting upon all matters coming before such meeting, except upon a proposition to contract a debt by loan.

11. On the question of bonding a district, those electors have the right to vote "who have paid a school tax therein in the year next preceding the said meeting." The word "year" is construed to mean the twelve months immediately preceding the meeting or election.

12. In the case of a woman and her husband, each owning property, the woman's property being real estate, and the county records showing that she is the bona fide owner of the property and pays the taxes, the fact that in listing the property of the husband and wife the assessor made only one list, and that in the husband's name, would not take away the right of the woman to vote at a school meeting called to vote upon bonded indebtedness; but the woman should be provided with a tax receipt or a certified statement from the county treasurer, showing that she has paid a tax for the year preceding the date upon which the question of the bonded indebtedness was decided.

13. Voters who have paid a school tax within the year upon property which at the time of the tax was paid in another school district, but at the time they offered to vote on the question of issuing bonds was by annexation in the district where they offered to vote, are legally qualified to so vote.

14. Those legal voters of the district who have paid a school tax therein during the preceding year determine the amount of indebtedness to be created.

15. Those same voters then vote "for the bonds" or "against the bonds."

County high school can vote bonds.

16. Having considered the relation in which the act of 1899 stands to the School Act, it appears evident that the general assembly intended to create a new and distinct school district, which should exercise all the powers of "school districts" and be classed as a school district, and in the exercise of those powers given to school districts in the state. It is, therefore, concluded that it has the right to issue bonds in accordance with the provisions of section 11 of the School Act.

Maximum amount issued.

17. In estimating a maximum amount of bonds that can be issued by a school district, the estimate must be based upon the last complete assessed valuation.

18. In no case shall the aggregate bonded indebtedness of any school district exceed three and one-half per cent. of the assessed value of the property of said district.

19. A school district created from organized territory, which is already bonded for building purposes, can issue new bonds to an amount not to exceed the difference between its share of the present bonded indebtedness and three and one-half per cent. of the assessed value of its property, both real and personal.

20. A school district created from organized territory, which is already bonded for building purposes, can issue new bonds to an amount not to exceed the difference between its share of the present bonded indebtedness and three and one-half per cent. of the assessed value of its property, both real and personal.

21. A school district has no right to create a debt except through bonding the district in accordance with the provisions of section 11, and the further provision that warrants may be issued before the funds to pay them are actually in the treasury; *Provided only*, That the total sum of such warrants does not exceed the revenue of the district for the year in which they were issued.

22. A majority of the votes being for the bonds, the directors issue the same, the maximum bonded indebtedness allowed by law being three and one-half per cent. of the valuation of the district.

23. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year. It would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

Purposes for which bonds can not be voted.

24. Bonds can not be voted for sinking an artesian well; but if the district has sufficient money in its special fund, it may use that money for such a purpose on a vote of the electors.

Certificate of indebtedness considered loan.

25. The Constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness can not be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building.

Ballot box—when open.

26. It is lawful for the ballot box for voting on the question of bonding the district to be open at the same time as the one for the election of school officers.

12. Registry of bonds—recorder's duty.

Whenever any school district shall issue bonds under the provisions of this act, all such bonds shall, previous to being negotiable, be presented to the recorder of the county, to be duly registered by him in a book kept for that purpose in his office, noting the school district, amount, time of payment and rate of interest, and all such bonds shall state on their face that they are issued under the provisions of this act. [M. A. S., 4058.]

13. Special tax—treasurer's duty—county board—payment—cancellation.

Whenever any school district shall issue bonds under the provisions of this act, it shall be the duty of the board of commissioners of the county in which said district may be situated to levy and assess a special tax on the taxable property of such district in amount sufficient to pay the interest coupons thereon, when the same shall become due, according to their tenor and effect, and the county treasurer shall collect the same as other taxes are collected, in cash only, keeping the same separate from other funds received by him; and if there shall be any surplus after paying [the coupons and] the expenses of collecting such special tax, the treasurer shall, without delay, pass the same to the credit of such school district, and such fund so passed to the credit of the district shall be subject to the disposal of the

board of directors. And after the expiration of five years next after the issue of such bonds, and annually thereafter, until the full payment of said bonds, the said county commissioners shall provide by taxation and shall collect at least ten per centum, and not more than twenty per centum of the principal of such bonds, which amount shall be assessed and collected the same as the tax for the payment of the interest coupons, and when collected shall be turned over to the treasurer of such school district, such money to be used only in the payment of such bonds, in manner as follows: The treasurer of such school district, immediately after receiving the money as aforesaid, shall advertise in some newspaper published in his county, if there be any, for four successive weeks, that, on a certain day named in the advertisement, he will pay certain of the district bonds, said bonds to be described in the advertisement by number and amount, and the advertisement shall further state that after the day so fixed for payment the interest on the bonds described as aforesaid shall cease and determine. The said payments shall be made at the office and in the presence of the treasurer of the county, who shall cancel the bonds redeemed, and a minute of such cancellation shall be made on the books of the county recorder, after which they shall be at the disposal of the district board. The provisions of this section for levying and collecting taxes, and for the payment of interest coupons, shall be applicable to all school districts that have issued bonds under the provisions of the laws of the Territory of Colorado. [M. A. S., 4059.]

Surplus fund may be applied on.

1. *Provided.* That the other necessary expenses of the school have been met, or *Provided,* That there is sufficient money in the general fund to meet the necessary expenses of the school, the extra money in the special fund may be used to apply on bonded indebtedness.

14. Redemption of bonds—premium.

In all districts that have issued bonds under the provisions of the laws of the territory of Colorado, the treasurer of the district, immediately after receiving the annual installment of the funds for the redemption of said bonds, as provided in section 91, shall go into the market and, at the lowest price for which he can obtain such bonds, shall use such fund in the retiring of such bonds to the extent of such fund; *Provided,* That the said treasurer shall not pay more than five per cent. premium on any bonds of his district, and any balance of said funds remaining in the hands of said treasurer shall be invested, as nearly as possible, in United States bonds or state bonds of Colorado. [M. A. S., 4060.]

NOTE—Section 91 above referred to is section 12 herein.

15. U. S. and state bonds purchased by district treasurer—how kept—proceeds—sale.

All United States or state bonds which may come into the hands of any district treasurer, under the provisions of this act, shall be duly recorded in the books of the district, and deposited in the safety vault of some bank within the state, selected by the district board. The interest coupons of said bonds shall be duly collected by the district treasurer, and the proceeds turned over to the county treasurer, to be used in the payment of the interest coupons of the bonds of such district, and the annual tax for the payment of the interest on said district bonds shall be proportionately lessened. Said United States or state bonds shall be sold by the district board at the best market rates, and the proceeds thereof used to redeem the bonds of the district when the same become due or when they can be bought at not to exceed five per cent. premium. [M. A. S., 4061.]

16. Change of boundaries not release property—annexed property.

No change in the boundary lines of such school district shall release the taxable real estate of the district from assessment and levy of taxes to pay the interest and principal of such bonds, and if there shall be any change of the lines of such school district, so as to leave any portion of the taxable real estate of the district out of the district, which was subject to taxation in the district at the time of the issue of such bonds, the assessment and levy for principal and interest of such bonds shall be made on such property as if it were still within the district, and if there shall be any change of the lines of such school district, so as to annex any taxable real estate, after the issue of such bonds, the real estate so annexed shall thereafter be subject to the assessment and levy for principal and interest of such bonds. [M. A. S., 4062.]

Lands not subject to tax.

1. Lands to which title has not been obtained from the government at the time school bonds are issued by a district of which such lands form a part are not subject to tax for the payment of such bonds. Hence, if said lands are set off or detached from the district before title is perfected, they are not subject to a bond tax in the original district when title is complete.

Lands subject to tax.

2. State or government lands occupied under contract of purchase, title having already been acquired and land deeded, are subject to assessment the same as other lands for the payment of bonds issued by the school district of which they form a part, or such portion of said bonds, if any, that remain unpaid; *Provided*. "That said lands were deeded before said bonds had matured."

3. Territory detached from a district which has been bonded is not released from taxation to pay both principal and interest of such bonds. Such detached territory is liable for such taxation until the bonds have

been fully discharged, the same as if it had remained a part of the original district.

17. County treasurer's fees.

The treasurer of the county shall receive the same compensation for the collection of such special taxes as he does for other school taxes. [M. A. S., 4063.]

NOTE—See [3 Mills (Rev.), 1899] for per cent. of compensation.

18. Bonds—how executed.

All such bonds so issued shall be signed by the president of the board of directors, and shall have the seal of the district attached, and shall be countersigned by the county treasurer. [M. A. S., 4064.]

19. Repeal.

An act entitled "An act concerning school bonds," approved January 29, 1872, and all acts amendatory thereto; also, an act entitled "An act to amend, revise and consolidate the acts relating to public schools," approved February 11, 1876, and all other general laws inconsistent with this act are hereby repealed. [M. A. S., 4065.]

20. Board of directors refund bonded indebtedness—interest.

That when the bonded indebtedness of any school district in this state has matured, or may hereafter mature, or has or may hereafter become redeemable at the pleasure of the district and there shall not be funds in the treasury of such school district available for that purpose with which to redeem or pay such bonds, it shall be lawful for the board of directors of such school district to issue and sell new bonds, equal to the sum necessary and not otherwise provided for the payment of the bonds then matured or those then redeemable at the pleasure of such school district, and such bonds thus issued shall not be sold at a less price than their par value; *Provided*, It shall be lawful for the board of directors of any school district having a bonded indebtedness, to refund the same, at any time, with the consent of the bond owners, in bonds bearing a less rate of interest than the bonds so refunded and running for a longer time, which said bonds thus issued shall be exchanged at not less than par for the bonds outstanding.

Provided, further, That all bonds issued under this section shall bear interest at such rate as said school board may determine, not to exceed 8 per cent. per annum, and shall be redeemable at the pleasure of the district board, in not to exceed ten years and payable in not to exceed twenty years from the date thereof, and the date after which said bonds are redeemable

shall be plainly written or printed on the face thereof. [3 Mills (Rev.), 4066.]

21. What laws apply to issue and payment—except.

All the provisions of the laws of the state of Colorado, now existing, relating to the duties of district and county officers in the issue and payment of district bonds, and relating to the assessment and collection of taxes for the payment of the interest and principal of school district bonds, shall be held to apply equally and in like manner to all matters pertaining to the issue and payment of bonds issued under the provisions of this act, except that the time when taxes shall be levied and collected for the payment of the principal of said bonds shall be as herein-after provided. [M. A. S., 4067.]

22. County board levy tax—treasurer collect.

At the time provided by law for the levying of county taxes in the year next preceding the date at which the first installment of said bonds shall mature, and every year thereafter until the whole amount of said bonds shall be redeemed, the board of county commissioners of any county in which bonds shall have been issued under the provisions of this act, shall levy a tax sufficient to pay not less than ten per centum nor more than twenty per centum of the principal of said bonds, and the county treasurer shall collect the same as other taxes are collected, and shall pay the amount so collected to the district treasurer as is now provided by law. [M. A. S., 4068.]

23. Proviso—submission for refunding—against refunding.

Provided, however, That no bonds shall be issued under the provisions of this act until the question of refunding shall first have been submitted to, and approved by, the qualified voters of the district as is now or may be provided by law, except that the electors shall vote "for refunding," or "against refunding," instead of "for the bonds," or "against the bonds." [M. A. S., 4069.]

NOTE—See section 90.

CERTIFICATES.

24. **Grades of certificates—renewals—record.**

The certificates issued by the county superintendent shall be of three grades, distinguished as first second and third. The first grade certificate shall be valid for three years and may be renewed by the county superintendent of the county in which it was issued; the second grade certificate shall be valid for eighteen months; the third grade certificate shall be valid for nine months; *Provided, however,* That not more than two certificates of the same grade (third grade) shall be issued to the same person. A county superintendent may, upon the application of a teacher holding a first grade certificate, received at a regular examination in another county in the state, and in full force at the time, issue to said teacher a certificate of like grade; *Provided,* That such certificate shall not show the standing in each branch, nor be subject to renewal, but shall show the conditions upon which it is issued. And he may revoke certificates of any grade at any time, for immorality, incompetency or other just cause. It shall be deemed a violation of law to grant certificates of any of the above grades, except one of like grade, without requiring the applicant to pass a thorough and satisfactory examination in such branches and at such times as are specified in section 15 of this act; and in all such examinations the questions prepared by the superintendent of public instruction shall be used. In case a certificate is revoked or refused by the county superintendent, the right of appeal to the state board of education shall not be denied the teacher or applicant, if said appeal be taken within thirty days from date of notice of such revocation or refusal. The county superintendent shall keep an official record in a suitable book of the persons so examined, containing the names, age, nativity, date of examination and grade of certificate issued; he shall also retain for three months the written answers of all applicants at the regular examinations and hold the same subject to the order of the state board of education; *Provided, further,* That in a school district of the first class the examination may be conducted by the school board of such district in such manner and at such times as the board may determine, who shall have power to issue district certificates of the same grades and under the same conditions as are specified in sections 15 and 16 of this chapter, said certificates, however, shall be reported to the county superintendent, who shall keep a record of the same, and shall be valid only in the district where issued, such boards may, however, if they see fit, issue certificates without examinations to

high school teachers who hold satisfactory evidence of adequate training for the work they are to do. [3 Mills (Rev.), 3980.]

NOTE—Section 16 above referred to is section 24, and section 15 is section 99 herein.

NOTE—Questions prepared by superintendent of public instruction. See section 181.

Life of first grade certificate—renewal.

1. The life of a first grade certificate is three years. Such certificate may be renewed by the county superintendent in the county in which it was originally issued at the time, or immediately before its expiration.

2. A first grade certificate can not be renewed if presented for renewal after the expiration of the time for which it was issued.

3. A first grade certificate may be renewed, indefinitely, without examination, in a county in which it was originally issued.

4. A certificate can not be made to extend beyond the time for which it was originally given, save through renewal in the proper manner of a first grade certificate.

5. A first grade certificate issued in one county can not be renewed by a county superintendent of another county, but he can issue one of like grade which shall not show standing nor be subject to renewal.

6. In renewing a first grade certificate one of two practices should be observed. The certificate should be renewed for the full term for which the original was issued—that is, should be so renewed that the time should correspond with the date upon which the original expires—or the recognition should simply be until the next examination.

7. The fact that a teacher failed to pass the examination in another county would not affect the standing of the first grade already obtained by her. It is entirely optional with the county superintendent as to whether a first grade certificate shall be renewed or not.

8. The law provides that a first grade certificate may be renewed by the county superintendent of the county in which it was issued. Since Adams county is a portion of that territory in which the certificate was issued, it may be renewed at the discretion of the county superintendent.

Renewal optional with county superintendent.

9. As it is entirely discretionary with the county superintendent whether or not a first grade certificate shall be either renewed or recognized by a "like grade," a first grade can not in any case be considered equivalent to a state certificate, which must be recognized in every part of the state during the life of the holder.

10. The renewal of a certificate is optional with the county superintendent; and he would be justified in refusing to renew or issue a like grade certificate if he deemed it proper so to do.

11. It is entirely optional with a county superintendent as to whether a first grade certificate shall be renewed or not. If renewed, it is for the full time for which it was originally issued.

Endorsement of first grade certificate.

12. The endorsement of a first grade certificate until the next examination will not invalidate it in the county where issued.

13. It is a violation of the law to endorse county teachers' certificates issued in this, or any other state, if the certificate be not in full force at the date of such endorsement. Should the board employ a teacher without a license to teach, all claim to compensation on the school fund for the term will be forfeited.

Experience necessary for first grade certificate.

14. There is no law concerning the practical experience in teaching to be considered in issuing a certificate of any grade except in the prescribed rules and regulations governing county examinations of teachers, which rules are sent from this office. Rule 18 definitely states applicants for certificates of the first grade shall have taught successfully for at least one year. Rule 14 requires practical experience in teaching to be considered in issuing a certificate of any grade.

15. The one year's successful teaching required for eligibility to a first grade certificate is not restricted to teaching in Colorado.

16. The year's experience required for a first grade certificate is construed to mean twelve months.

17. There is no provision in the Colorado school law crediting teachers with a year's experience who have taught the blind, deaf, or mentally deficient, for one year.

Duplicate first grade certificate.

18. A duplicate first grade certificate, while in force, can be renewed just as if it were the original.

19. The law makes no provision for the writing of a duplicate certificate for the convenience of the person holding a first grade certificate. Special permission may be obtained by a county superintendent to write a duplicate certificate in case the holder of the original gives proof of its being lost or destroyed.

Life of second grade certificate.

20. A second grade certificate is not good for eighteen months' teaching; it is simply in force for eighteen months from the date upon which it was issued.

Experience not necessary for second grade certificate.

21. I know of no law authorizing a county superintendent to refuse granting a second grade certificate to an applicant meriting the same, on account of an absence of experience in teaching.

Second grade certificate can not be renewed.

22. A second grade certificate can not be legally renewed, neither does the law make provision for the issuing of a certificate of like grade.

Second grade certificate not changed without examination.

23. It is not legal to change a second grade certificate to a first grade certificate, no matter what the averages may be upon the certificate. It is absolutely necessary that the holder of said certificate should take an examination, making the grades required for a first grade certificate, to obtain such a certificate.

Life of third grade certificate.

24. The nine months specified in issuing a third grade certificate means that the certificate is valid nine months from the date of the examination upon which it was issued. It does not mean that it is good for nine months' teaching, no matter when the teaching may be done. The same rule holds good for the time specified upon a first or second grade certificate.

Third grade certificate—when invalid.

25. The clause "Provided, however, that no more than two certificates of the same grade shall be issued to the same person," is interpreted as referring to third grade certificates.

26. A third grade certificate issued to one who has previously held two third grades is invalid.

Like grade certificates.

27. The endorsement or renewal of certificates and the issuing of like grade certificates are in all cases optional with the county superintendent.

28. The county superintendent has the power to issue a like grade certificate upon a renewal of a first grade certificate issued in another county, that is, a renewal made by the superintendent in the county in which the certificate was originally issued. There is nothing compulsory in regard to the issuing of a like grade certificate. If, in the judgment of the county superintendent to whom the certificate issued in another county is presented, it seems best that the applicant should take the examination rather than that the renewed certificate shall be recognized by a like grade, he has absolute authority to do so.

29. A like grade certificate can not be issued on a second grade certificate, though such second grade certificate has a first grade average.

30. A like grade certificate is not renewable and expires at the time the original issuance of the certificate is ended, or at the time the renewal expires.

31. It is not legal to issue a like grade on a second grade, as the law plainly states that a like grade certificate shall only be given in lieu of a first grade certificate in full force issued in another county than that in which the school is to be taught.

32. The School Law makes no provision for the issuing of a certificate of like grade to the holder of a second or third grade certificate.

33. A certificate of like grade from one county can not be endorsed by a county superintendent of another county, but if the first certificate upon which the like grade was issued is still in force another like grade certificate upon it can be issued in another county.

34. The life of a like grade certificate is concurrent with that of the original in lieu of which it was issued.

35. A like grade certificate may be issued in lieu of a first grade certificate which has been renewed in the county where issued.

36. A like grade certificate may be issued in lieu of a first grade, even though the first grade show previous endorsement.

37. A like grade certificate may be issued only to a person who is to teach in the county where such certificate is issued.

Revocation of certificates.

38. A certificate to teach can not be annulled or withdrawn from a holder without cause for so doing. This section especially provides for such cases.

39. A certificate to teach can not be revoked by a county superintendent without having good and sufficient reasons for so doing. Alleged exorbitant wages named in a contract between him and the directors of a district would not be lawful reason for revoking a certificate unless fraud of some kind could be shown.

40. A teacher's certificate may be revoked for immorality, incompetency, drunkenness or like cause. The fact that a person who applies for a teacher's certificate is a person of bad habits, who becomes intoxicated, or is a gambler, would be sufficient reason to refuse to grant him a certificate. Positive proof, however, should be in the possession of the county superintendent when taking such action.

41. The laws of this state make it impossible for a school board to discharge a teacher without some cause that would be considered in the courts a sufficient reason for breaking the contract between the teacher

and the school board. Incompetency, immorality, drunkenness, etc., are the reasons that are usually given.

College diploma not license to teach.

42. A college graduate from another state is not exempt from the regular county examination.

43. A college diploma is not a license to teach in any public school in the state. Special examinations are not given or granted. A county teacher's certificate issued in any other state may be recognized in case of emergency, providing that the certificate be in full force at date of endorsement.

Permits not granted.

44. There is absolutely no authority in law for a temporary permit or certificate of any nature whatever.

45. The laws of Colorado do not make it possible for a permit to teach to be granted to any teacher expecting to enter the public school work of this state.

Expiration of.

46. There is absolutely nothing that can be done in the case of an expired certificate of any grade. A second grade certificate could not be renewed even if unexpired. The laws of Colorado do not permit the endorsement of expired certificates; neither do they permit the holding of special examinations.

From other counties—optional.

47. There is nothing in the law to compel a county superintendent to recognize a teacher's certificate issued in any other county, even though a school board in the county superintendent's own county has engaged such teacher to do the school work in the district.

Appeals from county superintendent.

48. Except in the case of a formally taken appeal from the action of a county superintendent in refusing to grant a certificate, the state board of education has no authority to pass upon the papers presented by an applicant at a teacher's examination.

49. In case of appeal from the decision of county superintendent to the state board of education by an applicant for certificate at a regular examination, the certificate, if any, issued to said applicant upon such examination, should accompany the papers sent to the state board.

50. The laws of Colorado do not give the state superintendent the right to endorse certificates of any kind from other states.

51. The state superintendent has no authority to grant a certificate to teach except when directed to do so by a vote of the state board of education in cases of appeal and of state examination.

52. The state superintendent has no authority whatever to waive in any manner the requirements of law for a license to teach, nor to grant a temporary certificate or permit, nor to authorize a county superintendent to grant such certificate or permit.

53. A person holds a certificate that expires September 8. He begins school under contract on September 1. He fails to obtain a certificate in the examination held in August and appeals to the state board of education. Held, that he may continue his school during the pendency of an appeal.

54. When a certificate is revoked by a county superintendent such revocation takes effect on the day named by him, and the holder thereof can not lawfully teach during the pendency of an appeal to the state board of education.

55. The state superintendent has no authority whatever to waive, in any manner, the requirement for the issuing a certificate to teach, nor to order a county superintendent to change the marking, unless the applicant appeals from the decision of the county superintendent to the state board of education.

56. An offer to teach for unreasonably low wages is not a sufficient reason for refusing to grant a certificate.

Of first class districts.

57. In districts of the first class the school directors have entire charge of the examination of applicants for positions in the schools of their district.

58. Certificates issued by districts of the first class are valid only within such districts.

59. In school districts of the first class the examination is conducted by the school board in such manner and at such times as the board may determine.

60. Teachers' certificates issued by the board of directors of first class districts must be reported to the county superintendent.

61. Since the law provides that the certificates issued by the boards of districts of the first class must be of the same grades and under the same conditions as those specified in sections 99 and 24 of the school law, it follows that equal requirements must be made in districts of the first class as in other districts, and the board would not have the right to exempt the candidates from examination in one or more of the subjects specified in section 99 of the school law.

62. Teachers' certificates issued by the board of directors of first class districts are reported to the county superintendent and a record kept of the same, but they are not renewed nor endorsed; therefore, no fee would be charged for the registration of said certificates.

63. There is no law authorizing second and third class districts to hold examinations for teachers to be employed by such districts.

64. The laws of Colorado do not give county superintendents the slightest authority to recognize district certificates in any way. Such certificates are valueless so far as entitling their holders to a right to teach in other schools of the county. Neither can examinations for teachers' certificates be taken at any time except as prescribed by law for public examination.

65. According to this section the school board of a first class district has the right to conduct an examination in such manner and at such time as the board may determine; therefore it may decide to hold the examination on consecutive days, or on irregular days, as desired. The school board has the right to prepare its own questions used in this examination, or to authorize some person to prepare them.

66. All first class districts have a right to make their rules and regulations governing examinations for certificates and for any special line of work.

67. School boards, in districts of the first class, have entire control of the examination and licensing of applicants to teach in their districts. They also have a legal right to renew certificates without examination.

68. Until a first class district is fully organized, so far as its board, etc., is concerned, in conformity with the provisions of the law relating to first class districts, the board of the district would have no right to grant certificates to the teachers employed. Until the board was fully organized as a first class board the teachers employed in the district should be required to take the regular county examination.

69. When a district of the first class has issued district certificates in recognition of first grade county certificates, and one of the county certificates is revoked by the county superintendent, assuming that the cer-

tificate referred to was granted under the last clause of section 24 of the state school law, the county certificate being taken as evidence of scholastic attainments instead of an examination being held upon which to grant the district certificate, and also that the county certificate was taken by the district board as satisfactory evidence of adequate training, etc., the revocation of the county certificate would not revoke the district board's certificate any more than it would if the board's certificate had been granted on some other evidence.

70. "In districts of the first class the board may issue certificates without examinations, to high school teachers who hold satisfactory evidence of adequate training for the work they are to do. In districts of the second and third class they must pass the regular county examination, and the examination shall extend to such additional branches of study as are to be pursued in the high school in which they are to teach."

COMPULSORY EDUCATION.

25. Unlawful to employ children under fourteen during school—fines.

That it shall be unlawful for any person, persons or corporation to employ any child under the age of fourteen to labor in any business whatever during the school hours of any school day, of the school term of the public school, in the school district where such child is, unless such child shall have attended some public or private day school where instruction was given by a teacher qualified to instruct in those branches required to be taught in the public school of the state of Colorado, or shall have been regularly instructed at home in such branches, by some person qualified to instruct in the same, at least twelve weeks in each year, eight weeks at least of which shall be consecutive, and shall, at the time of said employment, deliver to the employer a certificate in writing, signed by the teacher, certifying to such attendance or instruction; and any person, persons or corporation who shall employ any child contrary to the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and fined in a sum not less than twenty-five (25) dollars nor more than fifty (50) dollars, and all fines so collected shall be paid into the county treasury, and placed to the credit of the school district in which the offense occurs. [M. A. S., 417.]

Child must be taught in English.

1. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent instruction to that given through the public schools, which the law requires shall be taught in the English language.

Does not apply to deaf and blind.

2. Attendance is not compulsory at the state school for the deaf and blind.

26. Children must be sent to school—exception—clothing.

Every parent or guardian, or other person in the state of Colorado, having control of any child or children between the ages of eight (8) and fourteen (14) shall be required to send such child or children to a public school, or private school taught by a competent instructor, for a period of at least twelve (12) weeks in each year, at least eight (8) weeks of which time shall be consecutive, unless such child or children are excused from such attendance by the board of the school district in which such

parent, guardian or person having control resides, upon its being shown to their satisfaction, that such child's bodily or mental condition has been such as to prevent attendance at school, or application to study for the period required; *Provided*, That if such parent or guardian is not able, by reason of poverty, to properly clothe any such child, it shall be the duty of the school board of the proper district, upon the fact being shown to their satisfaction, to furnish the necessary clothing and pay for the same out of the school fund of such district, by warrant drawn as in other cases, or that such child or children are taught at home in such branches as are usually taught in the public schools, subject to the same examination as other pupils of the district in which the child resides; or that there is no school taught within two miles by the nearest traveled road. [M. A. S., 418.]

Demands not met by teaching German.

1. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent instruction to that given through the public schools, which the law requires shall be taught in the English language.

Board can not pay for private instruction.

2. A school board can not legally contract for the work of instructing high school pupils to be done by a private party or corporation and pay for it out of public school funds.

3. A director of a school board has no right whatever to draw money from the funds of a school district to pay for his child's board while attending school in another district. Any member so misappropriating the funds of the district can be compelled by process of law to refund the money.

4. There is no law authorizing the school board to pay from the school fund the board of children who do not live within the vicinity of the school.

Meaning of terms "year" and "court of competent jurisdiction."

5. The term "year," used in the act entitled, "An act to secure to children the benefit of an elementary education," is defined to mean the school year. And the term, "A court of competent jurisdiction," used in the same act, is defined to mean a justice, a county or a district court.

Law does not prohibit being expelled.

6. The compulsory attendance law does not prohibit a pupil from being expelled from public schools, in proper cases.

27. Failure to comply with act—misdemeanor—penalty.

Any parent, guardian or other person failing to comply with the provisions of section 2 of this act shall, upon conviction, be deemed guilty of a misdemeanor and fined in a sum not less than five nor more than twenty-five dollars for each offense; and all fines so collected shall be paid into the county treasury and placed to the credit of the school district in which the offense occurs. [M. A. S., 419.]

Parents can not avoid law by sending children away.

1. When a boy's parents live in a school district they can not avoid the provisions of the compulsory law by sending their son to another locality, the child and the parents being exactly as liable to the provisions of the law as if they were keeping him in town and he was not attending school.

28. School director prosecute—failure—penalty.

It shall be the duty of any school director of the district to inquire into all cases of neglect of the duty prescribed in this act, and ascertain from the person neglecting, the reason, if any, therefore; and he shall forthwith proceed to secure the prosecution of any offense occurring under this act; and any director neglecting to secure such prosecution for such offense, within ten days after a written notice has been served on him by any taxpayer in said district, unless the person so complained of shall be excused by the district board of education for the reasons hereinbefore stated, shall, upon conviction, be deemed guilty of a misdemeanor and fined in a sum not less than ten nor more than fifty dollars; and such fine when collected, shall be paid into the county treasury and placed to the credit of the school district in which the offense occurs. All actions for offenses committed under this act shall be prosecuted for in the name of the state of Colorado. [M. A. S., 420.]

Duties of directors.

1. Under the act of 1889, it is made the duty of any school director of any school district in this state, to inquire into all cases of neglect of a parent, guardian or other person having control of any child or children between the ages of eight and fourteen years, to send such child or children to school for a period of at least twelve weeks in each year, and to prosecute any person guilty of such neglect.

2. Any director of any school district wherein an offense is committed under the act failing to prosecute the same after it shall be brought to his attention, may be deemed guilty of a misdemeanor, and upon conviction thereof may be subject to a fine of not less than ten nor more than fifty dollars.

3. In districts of the third class it is the duty of the school directors to inquire into all cases of neglect of duty by parent and secure prosecution for offenses committed.

4. School directors of third class districts have the authority to inquire into all cases of neglect of duty in regard to sending children to school, as prescribed by law, and the school directors not only have the right to prosecute the perpetrator of the offense, but it is made the bounden duty of any director to do so within ten days after a written notice has been served on him by any taxpayer of said district. The case may be brought before any justice court.

5. It is the duty of the school board to enforce the compulsory law. Complaint of its violation may be made by any elector of the district.

Funds of district used to prosecute.

6. The funds of the school district may be used to pay the expenses of procedure when it becomes necessary to compel parents to send children to school.

29. Malicious prosecution.

That upon the trial of any offense as charged herein, before any court of competent jurisdiction, if it shall be determined that such prosecution was malicious, then the costs in such case shall be adjudged against the complainant and collected as fines in other cases. [M. A. S., 421.]

Meaning of terms "year" and "court of competent jurisdiction."

1. The term "year," used in the act entitled, "An act to secure to children the benefit of an elementary education," is defined to mean the school year. And the term, "A court of competent jurisdiction," used in the same act, is defined to mean a justice, a county or a district court.

30. Attendance at night school equivalent to half time.

Two weeks' attendance at half time or night school, shall be considered within the meaning of the article equivalent to an attendance of one week at a day school. [M. A. S., 422.]

31. Children sent to school—exception—appeal.

That in all school districts of this state, all parents, guardians and other persons having care of children shall instruct them, or cause them to be instructed, in reading, writing, spelling, English grammar, geography and arithmetic. In such districts, every parent, guardian or other person having charge of any child between the ages of eight (8) and sixteen (16) years, shall send such child to a public, private or parochial school for the entire school year during which the public schools are in session in such district; *Provided, however,* That this act shall not apply to children over fourteen (14) years of age where such child shall have completed the eighth grade, or may be eligible to enter any high school in such district, or where its help is necessary for its own or its parent's support, or where for good cause shown it would be for the best interests of such child to be relieved from the provisions of this act; *Provided, further,* That if such child is being sufficiently instructed at home by a person qualified, such child shall not be subject to the provisions of this act; and *Provided, further,* That if a reputable physician within the district shall certify in writing that the child's bodily or mental condition does not permit its attendance at school, such child shall be exempt during such period of disability from the requirements of this act. It shall be the duty of the superintendent of the school district, if there be such superintendent, and, if not, then the county superintendent of schools, to hear and determine all applications of children desiring for any of the causes mentioned herein to be exempted from the provisions of this act, and if upon such application such superintendent hearing the same shall be of the opinion that such child is for any reason entitled to be exempted as aforesaid, then such superintendent shall issue a written permit to such child, stating therein his reasons for

such exemption. An appeal may be taken from the decision of such superintendent so passing upon such application to the county court of the county in which such district lies, upon such child making such application and filing the same with the clerk or judge of said court within ten days after its refusal by such superintendent, for which no fee to exceed the sum of one dollar shall be charged, and the decision of the county court shall be final. An application for release from the provisions of this act shall not be renewed oftener than once in three months. [3 Mills (Rev.), 4047a.]

Law does not prohibit a pupil from being expelled.

1. The compulsory attendance law does not prohibit a pupil from being expelled from public school, in proper cases.

Parents can not avoid law by sending children away.

2. When a boy's parents live in a school district they can not avoid the provisions of the compulsory law by sending their son to another locality, the child and the parents being exactly as liable to the provisions of the law as if they were keeping him in town and he was not attending school.

Demands of law not met by teaching German.

3. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent instruction to that given through the public schools, which the law requires shall be taught in the English language.

32. Children under 14 years not employed—penalty for employing.

No child under the age of 14 years shall be employed by any person, persons, company or corporations during the school term and while the public schools are in session, unless the parent, guardian or person in charge of such child shall have fully complied with section one of this act. Every such employer shall require proof of such compliance, and shall make and keep a written record of the proof given, which shall be subject to the inspection of the truant officer, superintendent of schools, or any school director of the district. Any employer employing any child contrary to the provisions of this section, shall be fined not less than twenty-five nor more than one hundred dollars. [3 Mills (Rev.), 4047b.]

33. Minors between 14 and 16 must read and write—duty of employer—penalty.

All minors over the age of 14 years and under the age of 16 years who can not read and write the English language, shall attend school at least one-half day of each day, or attend a public night school, or take regular private instruction from some person qualified, in the opinion of the county superintendent of schools, in which such district or the greater portion of the same

lies, until such minor obtains a certificate from such superintendent that he or she can read at sight and write legibly, simple sentences in English. Every employer employing or having in employment any such minor shall exact as a condition of employment the school attendance or instruction required by this section, and shall on request of the truant officer, furnish the evidence that such minor is complying with the requirements of this section. Every employer failing to comply with the requirements of this section as to any minor employed by him or in his employ, shall be fined not less than twenty-five dollars, and not more than one hundred dollars; *Provided*. That any employer with the approval or consent of the county superintendent of schools may make provision for the private instruction of minors in his employ. [3 Mills (Rev.), 4047c.]

Demands of law not met by teaching German.

1. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent instruction to that given through the public schools, which the law requires shall be taught in the English language.

34. Truant—who is—juvenile disorderly person.

Every child within the provisions of this act who does not attend school, as provided in section one of this act, or who is in attendance at any public, private or parochial school, and is vicious, incorrigible or immoral in conduct, or who is an habitual truant from school, or who habitually wanders about the streets and public places during school hours without any lawful occupation or employment, or who habitually wanders about the streets in the night time, having no employment or lawful occupation, shall be deemed a juvenile disorderly person, and be subject to the provisions of this act. [3 Mills (Rev.), 4047d.]

School directors must enforce law.

1. It is the duty of the school board to enforce the compulsory law. Complaint of its violation may be made by any elector of the district.

2. Under the act of 1889, it is made the duty of any school director of any school district in this state, to inquire into all cases of neglect of a parent, guardian or other person having control of any child or children between the ages of eight and fourteen years, to send such child or children to school for a period of at least twelve weeks in each year, and to prosecute any person guilty of such neglect.

3. Any director of any school district wherein an offense is committed under the act, failing to prosecute the same after it shall be brought to his attention, may be deemed guilty of a misdemeanor, and upon conviction thereof may be subject to a fine of not less than ten nor more than fifty dollars.

4. School directors of third class districts have the authority to inquire into all cases of neglect of duty in regard to sending children to school, as prescribed by law, and the school directors not only have the right to prosecute the perpetrator of the offense, but it is made the bounden duty of any director to do so within ten days after a written

notice has been served on him by any taxpayer of said district. The case may be brought before any justice court.

Does not prohibit expulsion.

5. The compulsory attendance law does not prohibit a pupil from being expelled from public schools, in proper cases.

35. Truant officer—powers—duties—record.

To aid in the enforcement of this act, the board of school directors in districts of the first and second class shall have power, and it shall be their duty, to appoint one or more truant officers whose compensation shall be fixed by the board appointing him. The truant officer shall be vested with police powers, and shall have authority to enter workshops, factories, stores and all other places where children may be employed, and in the way of investigation or otherwise, to enforce this act. The truant officer shall institute proceedings against any officer, parent, guardian, person or corporation who shall violate any of the provisions of this act, and shall otherwise discharge the provisions of this act, and perform such other services as the county superintendent of schools or the board of directors of the school district may deem necessary to preserve the morals and secure the good conduct of school children, and to enforce this act. The truant officer shall keep a record of his transactions for the inspection of the county superintendent of schools and of the directors of the school district, and suitable blanks shall be provided for his use by the secretary of the school district. [3 Mills (Rev.), 4047e.]

36. Truant officer—duties—conviction of parent—penalty—bond—defense.

The truant officer shall examine into any case of truancy within his district, and shall warn the parent, guardian, or others in charge of the child of the final consequences of truancy if persisted in. When any child between the ages of eight and fourteen years, or any child between the ages of fourteen and sixteen years, who can not read and write the English language, or is not engaged in some regular employment, or any child between the age of fourteen years and sixteen years who has been discharged from employment to obtain instruction or schooling, is not attending school without lawful excuse and in violation of the provisions of this act, the truant officer shall notify the parent, guardian, or other person in charge, of the fact, and require such person to cause the child to attend some recognized school within five days from the date of the notice, and it shall be the duty of such person so to cause its attendance at some recognized school. Upon failure to do so, the truant officer shall make complaint in the county court of the county in which such child lives, against the parent, guardian

or other person having such child in charge, and upon conviction, the parent, guardian or other person in charge, shall be fined not less than five dollars nor more than twenty dollars, or the court may, in its discretion, require the person so convicted to give a bond in the penal sum of \$100, with sureties to the approval of the judge of such court, conditioned that he or she will cause the child under his or her care to attend some recognized school within five days thereafter, and to remain at school during the term prescribed at law. And upon the failure or refusal of the parent, guardian or other person to pay such fine or furnish such bond according to the order of the court, the said parent, guardian or other person shall be imprisoned in the county jail not less than ten days nor more than thirty days. For violation of the bond, suit may be brought in any court of competent jurisdiction, in the name of the school district, and the amount recovered shall go to the school fund of the district. If the parent, guardian or other person shall prove his inability to cause the child to attend a recognized school, it shall be a defense, but the child shall be deemed a juvenile disorderly person within the meaning of section 4 of this act. [3 Mills (Rev.), 4047f.]

NOTE—Section 4 above referred to is section 28 herein.

Truant officers.

1. The compulsory education law of 1899 applies to children in the state between the ages of fourteen and sixteen, who can not read and write the English language, or who are not engaged in some regular employment.

Therefore, truant officers of the state are required to act with reference to children between the ages of fourteen and sixteen, when the circumstances demand, as with children under the age of fourteen; also, county courts are required by the law to take jurisdiction of such cases.

Funds of district used to enforce law.

2. The funds of the school district may be used to pay the expenses of procedure when it becomes necessary to compel parents to send children to school.

37. Juvenile disorderly person—commitment—term—expense.

Whenever a child shall be a juvenile disorderly person within the meaning of this act, the truant officer, or any school teacher, or other reputable person, may make complaint in the county court of the county in which such child resides. The county court shall hear and determine such complaint, and if it is determined that such child is a juvenile disorderly person within the meaning of this act, he or she shall be committed to a children's home, if eligible, or to the boys' industrial school or to the girls' industrial school, or to some other training school, taking into account the years of the child with reference to the institution selected. Any child committed to a children's home, on its being shown to the judge of said court that it is incorrigible and vicious, may be transferred to the industrial school or other proper insti-

tution. No child committed to any reformatory shall be detained beyond its majority, and may be discharged sooner or paroled by the trustees or board of control under rules and restrictions applicable to other inmates. Any order of commitment may be suspended by the judge of the county court during such time as the child may regularly attend school and properly conduct itself. The expense of the transportation of the child to the juvenile reformatory, and of the costs of the case in which the order of commitment is made, shall be paid by the county from which the child is committed. [3 Mills (Rev.), 4047g.]

38. Child unable to attend school—relief.

When any truant officer is satisfied that any child within the requirements of this act is unable to attend school because required to work at home or elsewhere in order to support itself or help or support others legally entitled to its services, the truant officer shall report the case to the authorities charged with the relief of the poor, who shall thereupon afford such relief as will enable the child to attend school; *Provided*, That such child shall not be required to attend more than three hours a day during school days. In case the child or its parents or guardians neglect or refuse to take advantage of such provision made for its instruction, such child may be committed to a children's home or juvenile reformatory, as hereinbefore provided. [3 Mills (Rev.), 4047h.]

39. Violation—penalty.

Any person who violates any provision of this act for which a penalty is not herein provided, shall be fined not more than fifty dollars. [3 Mills (Rev.), 4047i.]

40. Second conviction—penalty—trial by jury.

Every person who, after having been convicted once of violating any of the provisions of this act shall be convicted a second time of a similar offense, may, in addition to the punishment by way of fine elsewhere provided for, be imprisoned not less than 10 days nor more than 30 days; *Provided*, That in all cases arising under this act in which a fine or imprisonment may be a part of the judgment, trial shall be by a jury if not waived. [3 Mills (Rev.), 4047j.]

41. Not apply to districts without accommodations.

This shall not apply to school districts in which there are not sufficient accommodations in the public schools to seat children compelled to attend under the provisions of this act. [3 Mills (Rev.), 4047k.]

COUNTY SUPERINTENDENT.

42. Election—oath—bond—term of office.

There shall be elected in each county, at the general election in the year one thousand eight hundred and seventy-seven, and biennially thereafter, a county superintendent of public schools, who shall take office on the second Tuesday of January next succeeding that in which such election shall be held. He shall hold his office for two years, and until his successor shall be elected and qualified. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and execute a bond payable to the people of the state of Colorado, with two or more sureties, to be approved by the board of county commissioners, in penalty of not less than two thousand dollars, to be increased at the discretion of said board, conditioned upon the faithful performance of the duties of his office and the delivery of all moneys and property as such superintendent to his successors, which bond shall be filed in the office of the county clerk. [M. A. S., 3977.]

Qualifications.

1. In addition to other qualifications, a person to be eligible to the office of county superintendent must have resided in the county at least one year preceding his election.

43. Act till successor qualified.

When the term of office of any sheriff, * * * or other county officers shall expire, as now provided by law, it shall be lawful for such officer, whether re-elected or not, and his deputies, to continue to perform all the duties of such office until his successor shall be duly qualified as required by law. [M. A. S., 920.]

44. Failure to qualify—vacancy—appointment.

Should the superintendent-elect fail to qualify as aforesaid, or should there occur a vacancy in said office, the board of county commissioners shall at their next meeting after such vacancy or failure to qualify occurs, appoint an eligible and suitable person, who shall qualify within ten days after his appointment, and who shall continue in office until the next general election thereafter. Should such appointee fail to qualify, as aforesaid, another appointment shall be made in the same manner, until the vacancy shall be filled by appointment or election. [M. A. S., 3978.]

45. When office becomes vacant.

Every county office shall become vacant on the happening of either of the following events before the expiration of the term of office:

First—The death of the incumbent.

Second—His resignation.

Third—His removal.

Fourth—His ceasing to be an inhabitant of the county for which he was elected or appointed.

Fifth—His conviction of any infamous crime, or any offense involving a violation of his official oath.

Sixth—His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit such oath and bond within the time prescribed by law.

Seventh—The decision of a competent tribunal, declaring void his election or appointment. [M. A. S., 924.]

46. Classification of counties to regulate salaries.

For the purpose of regulating the amount of compensation of county superintendents of schools, the counties of the state are divided into seven classes as follows:

The City and County of Denver, El Paso and Las Animas Counties shall be the first class; Pueblo, Weld, Boulder, Fremont and Teller Counties shall be the second class; Conejos, Delta, Garfield, Gilpin, Huerfano, Lake, Larimer, Mesa, Montrose, and Otero Counties shall be the third class; Chaffee, Clear Creek, Douglas, Eagle, Elbert, Jefferson, Gunnison, La Plata, Ouray, Rio Grande, Pitkin, Park, Prowers and Saguache Counties shall be the fourth class; Bent, Custer, Cheyenne, Kit Carson, Logan, Montezuma, Morgan, Routt, San Miguel and Yuma Counties shall be the fifth class; Archuleta, Baca, Costilla, Grand, Kiowa, Lincoln, Mineral, Phillips, Rio Blanco, San Juan, Sedgwick, Summit and Washington shall be the sixth class; Dolores and Hinsdale shall be the seventh class. County superintendents of schools shall receive the following compensation, to be paid quarterly out of the county treasury, to wit: In counties of the first class, an annual salary of twenty-eight hundred dollars (\$2,800.00); in counties of the second class an annual salary of two thousand dollars (\$2,000.00); in counties of the third class, an annual salary of twelve hundred dollars (\$1,200.00); in counties of the fourth class, an annual salary of eleven hundred dollars (\$1,100.00); in counties of the fifth class, an annual salary of eight hundred dollars (\$800.00); in counties of the sixth class, an annual salary of five hundred dollars (\$500.00); in counties of the seventh class, an annual salary of one hundred dollars (\$100.00); in all but first and second class counties, boards of county commissioners may allow mileage not to exceed ten cents (10c) per mile for distance necessarily

and actually traveled in the performance of duty, not to exceed an aggregate of three hundred dollars (\$300.00) per annum in any county. [L. '95, p. 175, Sec. 2.]

47. Compensation of county superintendents—office hours.

The commissioners shall provide him with a suitable office at the county seat, and all necessary blank books, stationery, postage, expressage and other expenses of his office, not otherwise provided for, which last mentioned expenses shall be paid for from the county fund. He shall keep his office open for the transaction of official business such days each week as the duties of the office may require. [M. A. S., 3989.]

NOTE—This portion of original M. A. S. 3989 not necessarily repealed by section 14, page 312 of Session Laws of 1891, and so still remains in force.

NOTE—The following was the first part of this section prior to the passage of L. '91, page 312, section 14, which was amended by L. '99, page 336, section 10, which in turn was amended by above section.

"For the time necessarily spent in the discharge of his duty he shall receive five (5) dollars per day, and fifteen (15) cents for each mile necessarily traveled one way. He shall, as far as practicable, render an itemized bill of his services and mileage, each month or quarter, to the board of county commissioners, and shall make oath that the bill is just and correct; whereupon the county commissioners shall order a warrant on the county treasurer, payable from the general county fund; *Provided*, That the annual salary so received shall in no case exceed one hundred dollars for each regularly organized public school in the county."

Expenses, how paid.

1. All expenses of the county superintendent's office, not otherwise provided for, shall be paid for from the county fund.

2. School Law definitely states the commissioners shall provide the county superintendent with a suitable office at the county seat, and all necessary blank books, stationery, postage, expressage, and other expenses of his office, not otherwise provided for, which last mentioned expenses shall be paid from the county fund.

48. Deputy—how paid.

If for any cause the superintendent is unable to attend to the duties of his office, he may appoint a deputy, who shall take the usual oath or affirmation of office, and who may exercise all the functions of county superintendent, but such deputy shall draw no salary from the public fund; *Provided*, That the superintendent may receive a *per diem* for the services of such deputy. [M. A. S., 3981.]

Deputy—compensation.

1. A county superintendent may employ some one to do the work incidental to his office, the person thus employed to be remunerated by the county superintendent, except in counties of first class such assistant is paid from county treasury.

2. Deputy county superintendents, except in counties of first class, can only receive a *per diem*, such as may be fixed by county superintendent and allowed by the county commissioners, and a failure to provide mileage leads to the conclusion that it was not intended that deputy superintendents should receive mileage at all.

3. A county superintendent of a county of the first class may employ a deputy, whose salary shall be fixed by the board of county commissioners, and who shall be paid from the county treasury.

49. Deputies and assistants of county superintendent—compensation.

Deputies and assistants may be employed by the sheriffs, county clerks, county treasurers, county assessors and county superintendents of schools, under the direction of the board of county commissioners for said counties respectively, and clerks of the district court under direction of the judge of such court, and shall be paid salaries out of the fees, commissions and emoluments of the office wherein employed (except employes of county assessor and of county superintendent, who shall be paid out of the county treasury), the compensation and time of service to be fixed by the board, the selection of said deputies and employes to be made by the officer authorized to employ them; *Provided*, That the provisions of this section relating to the county superintendents of schools shall apply only in counties of the first class. [3 Mills (Rev.), 1936x.]

First class county—deputy—salary.

1. A county superintendent of a county of the first class may employ a deputy, whose salary shall be fixed by the board of county commissioners, and who shall be paid from the county treasury.

50. County superintendent's annual report.

On the first Tuesday of September in each year, the county superintendent shall make a report to the superintendent of public instruction for the school year ending June 30 next preceding, which report shall contain an abstract of the reports made to him by district secretaries, and such other matters as the superintendent of public instruction may direct, and shall be in such form and upon such blanks as the superintendent of public instruction shall furnish. The county superintendent shall retain a copy of all such reports and file the same in his office. [M. A. S., 3982.]

51. Penalty for failure to report.

If the county superintendent fails to make a full and correct report to the superintendent of public instruction, as provided by law, and shall, after written request or notice from the superintendent of public instruction, or from the board of county commissioners, delay more than ten (10) days after the service of such notice to make such report, he shall forfeit the sum of one hundred dollars, which sum the board of county commissioners may deduct from any money due him; said forfeit may, however, be recovered by suit, upon his official bond. [M. A. S., 3985.]

52. Administer oaths.

The county superintendent shall have power, and is hereby authorized, to administer oaths and affirmations to school direc-

tors, teachers and all other persons in official matters relating to schools; but shall receive no fee for so doing. [M. A. S., 3986.]

53. Duties of county superintendents.

It shall be the duty of the county superintendent to exercise a careful supervision over the schools of his county, to visit each school at least once during each quarter it is in session, to see that all the provisions of this act are observed and followed by teachers and school officers; to examine the accounts of the district officers to see if such accounts are properly kept, and all district funds properly accounted for; to keep, in a good and substantial bound book, a record of his official acts, and of other matters required by law to be recorded; to obey the legal instructions and decisions of the superintendent of public instruction. He shall also keep a record of the registers, record books and order books furnished to the several districts of his county; and it shall be his duty to hold county teachers' associations whenever, in his judgment, the interests of the school work demand it; the records of the county superintendent's office shall be open to the inspection of any citizen of the county, and within one week from the close of each school year he shall publish in some newspaper published in the county, if there be such a paper, a statement of the apportionment of school funds for the year preceding. [M. A. S., 3984.]

Sale of school house—when void.

1. A sale of a school house, unless authorized by vote of the electors of the district, is void and may be set aside in the proper proceedings instituted by any elector of the district or by the county superintendent.

Separate reports sent—when.

2. In a district where there are two schools, the district teachers should send in separate reports to the county superintendent and secretary.

May teach.

3. There is nothing in the school law of this state to prevent a county superintendent from teaching in his county on account of his holding that office.

Duties of.

4. It is necessary to publish the apportionment made to each district in some newspaper published in your county within one week of the close of each school year.

5. More than any other person, the county superintendent is the one to look after that portion of the school fund arising from fines, forfeitures, etc. (Section 115, school law.) He should examine the books of the county treasurers, records and fee books of justices of the peace and clerks of courts, to ascertain whether or not the fines have been collected, and if collected, whether they have been placed to the credit of the proper fund and paid over.

Can refuse examination papers from another county.

6. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superin-

tendent to recognize examination papers prepared under the supervision of the county superintendent of another county. This is a mere matter of comity, and is not sanctioned by law. Therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue a certificate thereon, the board of education has no other course than to dismiss the appeal.

Illegal expenditure of funds—protest—suit to recover.

7. Any elector of the district or the county superintendent of the county, through legal process, may prevent the board from paying out money as wages to a teacher when she does not possess the necessary license.

Accounts.

8. The county superintendent has the right to protest against the registering of a school warrant when he has reason to suspect fraud, and if he has proof of fraud in connection with the warrant, he has the same right as an elector of the district to bring proceedings to stop the payment of the warrant.

9. It is the duty of the county superintendent to prevent any illegal expenditure of funds, and any citizen of the district may at any time after any illegal expenditure bring suit to recover the funds illegally expended.

10. When funds are used in violation of the law, any elector of the district or any county superintendent has the right at any time after said funds have been so used, to bring suit to recover the same, the members of the school board that signed the illegal warrants being liable for the amount involved.

Powers.

11. The county superintendent's signature is of no legal value in drawing warrants.

12. As between school directors and the county superintendent, the latter has advisory powers only in arranging course of study, selection of books and grading of schools.

13. A county superintendent has the right to demand the resignation of a member of a school board and to institute legal proceedings to remove an officer of a school district who is persistently violating the law, and any elector of the district has the right to institute proceedings for the same purpose.

14. A county superintendent has no power whatever to remove a member of a school board under any circumstances, even though the taxpayers may petition the superintendent to make such removal.

15. All monthly and term reports provided for in the course of study must be furnished by the respective counties.

16. The courts alone have the power to remove a school officer who fails to do his or her duty.

17. Where a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher for the same, as if she had taught school, although the school board would have the right to give the teacher such a day and pay her for it upon the request of the county superintendent. The right in the matter rests with the district board.

54. **Appoint directors.**

The county superintendent shall appoint directors for any district which fails to elect, as provided in section 44, and shall fill vacancies that may occur in any board of directors by reason of death, removal from office or from the district, resignation or

otherwise, except in the boards of directors of districts of the first class, and the officers so appointed shall hold office only until the ensuing regular election. [M. A. S., 3987.]

NOTE—Section 44 above referred to is section 92 herein.

Vacancies on board—how filled.

1. The appointment of persons to fill vacancies in districts of the second and third classes is solely with the county superintendent. If a director is absent from his district 30 consecutive days, it is a valid reason for appointing his successor in office.

2. Where a division of a school district places a member of the school board in the new district it works a vacancy in the board of the old district, and does not make such person a member of the board in the new district. A full board must be chosen in the new district and all vacancies in the old district filled by appointment made by the county superintendent.

3. Vacancies in school boards of the second and third classes must be filled by appointment made by the county superintendent, and the person so appointed holds the position until the next annual school election.

4. If the annual election of school directors is not held, and a special election is not called within the required ten days thereafter, it then devolves upon the county superintendent to fill vacancies by appointment.

5. The statutes give boards of directors of districts of the first class the entire authority to declare and fill vacancies, and with that authority, by necessary implication, goes the authority to declare vacancies, excluding the idea that a county superintendent may have that authority. The county superintendent has no right whatever to hold that a vacancy exists in the board of a district of the first class until such vacancy has been declared by the board itself, or by the courts.

6. In case a school district has not held its annual meeting to elect officers and vote a tax it becomes the duty of the county superintendent to appoint to the vacant positions, and the duty of the county commissioners to levy the tax for the district. This is in accordance with the latter part of section 186 of the school law.

Director must reside in district.

7. The law requires that a person who desires to be a candidate for a school director must reside in the district, and it necessarily follows that in order to remain such director, after election he must continue to reside therein, and when he permanently removes from the district, he ceases at that instant to be a director.

55. Boundaries of school districts—record—prepare maps.

It shall be the duty of the county superintendent to ascertain the boundaries of each school district in his county, and to make and keep a record of the same in a suitable bound book, which record shall show definitely the boundaries of each district. In case the boundaries are found to be conflicting or incorrectly described, he shall harmonize the same and make a report of such action to the board of school directors whose districts are affected thereby. District officers shall have access to such records for the purpose of examination, making copies, or for other legitimate purposes. The county superintendent shall prepare, or have

prepared, a map of the county, showing the correct boundaries of the districts. [M. A. S., 3988.]

Boundaries of district.

1. District boundaries can only be established as specified in the school law; they can not be fixed by agreement on the part of members of the school boards.

2. A county superintendent has not the right, after boundaries are established in a new district, to record "amended boundaries" for all the districts, upon his own motion, changing them from what they were at first.

56. County superintendent compare census list—ascertain number of blind and deaf mutes.

The census list of the several districts shall be carefully examined and compared by the county superintendent, and if the name of the same person be found upon more than one list he shall strike said name from all lists except that of the district in which such person was residing in good faith on the 10th day of April aforesaid. The residence of an unmarried person of school age shall, in all cases, be held to be identical with the *bona fide* residence of the parent or guardian of such person; *Provided*, That such parent or guardian be a resident of the state. If the county superintendent find upon any census list the names of any persons who he believes were not residents in good faith of such district, as aforesaid, he shall notify the secretary certifying the list, and if said secretary shall not establish the correctness of the list within fifteen (15) days after such notification, such names shall be stricken from the list. At the time of taking the annual census, the secretary shall use reasonable diligence to ascertain the number of blind and deaf mute persons resident in the district, between the ages of four (4) and twenty-two (22) years, with the name and postoffice address of each. Said items shall be embodied in his annual report to the county superintendent. [M. A. S., 4018.]

NOTE—County superintendent's report on June 1 in each year to superintendent of school for deaf and blind, the names of persons in their counties entitled to admission to such school, section 68.

NOTE—Census defined, section 156.

Residence defined.

1. A person's permanent residence is his voting place.

2. Where a family resides regularly a part of the year in one district and a part of the year in another, the residence for school purposes should be the one held in good faith on the 10th day of April.

3. The word "residing," as used in section 154, has reference to a permanent residence.

4. If persons spend the winter in town, voting in the town in the fall and return to their homes in another district less than thirty days previous to a school election, they are not entitled to vote, since their action in voting in the November election is a declaration of their residence in the town, and in removing to another district thirty days previous to a school election, even though they claim that as their home, they would not have gained the right to vote.

5. That place shall be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

A person shall not be considered or held to have lost his residence who shall leave his home and go into another state or territory or county of this state for temporary purposes merely, with the intention of returning.

6. Residence under the school law means a person's real home, not a temporary abiding place.

When people move into a town at the beginning of school, expecting to return to their permanent home at the close of school, they can not claim residence, and the school board has a right to charge tuition to children sent to school by such families.

7. If a person moves his family into a school district for the purpose of availing himself of the advantages afforded by that district, and subsequently, during the school year, removes from the district, he is not a resident of such district, within the meaning of the term as used in the school law of Colorado. The following is taken from a decision of the supreme court of Wisconsin (N. W. Rep., Vol. 41, page 1014): "Effort has been made to guard against the precipitancy of non-residents to points where superior advantages exist, and schools of high order are maintained, by holding that such children only are entitled to free tuition as are actually residing in the district for other reasons, as a main purpose, then to participate in the advantages which the school affords."

8. If a person is holding a homestead claim in good faith, he must retain his residence in the school district in which the homestead is located.

9. The fact that a person pays taxes in two counties does not give him the right to send children to school in both districts in which the taxes are paid. A man's residence can only be in one place, and the place where the home is permanently located determines the district where the children have a right to attend school.

10. In the case of a person who had lived in a district for over a year and a half and who, after teaching six weeks in the district, went away for a certain time, expecting to return, if such a person claimed as his residence the district in which he had resided for over a year and a half, he would be entitled to vote in the district if possessed of the other legal qualifications.

Children's residence—where.

11. In the case of a family residing in good faith upon a homestead on the 10th day of April, for the purpose of proving up on the same, the children of school age should be listed in the district in which the homestead is located, although the family may reside during the school months, for the purpose of attending school, in another school district. However, if the parents vote in the latter district, they are not residing upon the homestead in good faith, and in such case the children should be listed in the district where the parents vote.

12. The residence of the parents or guardians determine the school district in which the children's names should be listed. In case the mother has one legal residence and the father another, the residence of the mother determines the residence of the children.

13. Those pupils who are entitled to attend school in a district without paying tuition are those whose parents or guardians may legally claim the school district as their residence.

14. In the case of families living in one school district, but sending children to school in another district, the children must be listed in the district in which the parents reside, and not in the district in which they attend school.

15. In determining the residence for the purpose of taking school census, it matters not where the unmarried person of school age may be whose parent or guardian lives in the state, the residence of such person is fixed by the bona fide residence of the parent or guardian, and this must be determined by the census enumerator.

16. If the parents or guardian of a child remove from a school district, claiming a residence elsewhere, the child is not properly a resident of the district from which the parent or guardian has moved.

17. A child who is living with a bona fide resident of a district and dependent upon such resident for a living is entitled to attend school in such district free, though the parents of such child are living in another district.

18. If parents own no home in a particular district, but rent while the children go to school there, and return to a ranch which they own in another district as soon as school is out, the district in which the ranch is located should enroll the children upon the census list.

Minor's residence—where.

19. The residence of a minor is the residence of his parents or guardian.

20. An unmarried person under twenty-one can claim residence where the parents reside, whether absent from home at school or at work.

21. Considerable difficulty is sometimes experienced in determining "bona fide" residence. The law defines the residence of an unmarried person of school age (that is, of a minor) "to be identical with the bona fide residence of the parent or guardian, of such person; *Provided*, That such parent or guardian be a resident of the state."

22. An emancipated minor has a right to declare his residence, and is entitled to all the school privileges of the district of which he is, bona fide, a resident.

Renter's residence—where.

23. If renters renting by the year and having no other home send children to school, the district in which they are residing in a rented house should enroll the children.

24. If renters rent by the month, leaving when school is out, and having a fixed home elsewhere, the children should be enrolled in the district where the fixed home is located.

25. If renting by the month and having no home elsewhere, although leaving when school is out, the children should be enrolled in the district where they rent.

26. If the mother votes in a certain district, living there with the children, that would be her residence and the children should be enrolled in such district.

Retain residence—how.

27. A person may retain his residence in a district, if, at the time of leaving the district, it was his intention to return.

Non-resident—who.

28. A non-resident of a school district is one whose permanent dwelling place is not within the boundaries of that district.

57. Apportionment of county school fund.

The county superintendent shall apportion the general school fund of the county among the several school districts in accordance with the provisions of sections seventy-two and seventy-three

of this chapter, quarterly, to-wit: On the first Monday in January, April, July and October, in each year, and he may apportion the same at other times if there be sufficient money in the treasury to require it. He shall certify each apportionment promptly to the county treasurer, and shall also notify the secretary of each district of the amount placed to the credit of his district. [M. A. S., 3983.]

NOTE—Sections 72 and 73 above referred to are sections 58 and 59 herein.

Transference of funds.

1. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list and the district given its per capita for such additional names.

2. The laws do not permit the transference of the pro rata of the general fund to another district in case of pupils being listed in one district and immediately moving to an adjoining district.

Basis of apportionment.

3. According to the school law the county superintendent apportions the general fund among the districts according to the number of persons of school age, as shown by the census lists and reports of the districts for the school year immediately preceding. What the per capita will be depends upon the amount of funds in the treasury and the number of children within your county.

58. Apportionment of school fund—basis.

In apportioning the general fund, as directed in section nineteen of this chapter, the county superintendent shall base the July apportionment, in each year, on the census lists and reports of the secretaries of the several districts for the school year next preceding, and he shall base all apportionments on said lists and reports for a period of one year, except in the case of the apportionment to new districts, as provided in section thirty-two of this chapter. [M. A. S., 4037.]

NOTE—Sections 19 and 32 above referred to are sections 57 and 90 herein.

Basis of apportionment of funds.

1. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list and the district given its per capita for such additional names.

2. The laws do not permit the transference of the pro rata of the general fund to another district in case of pupils being listed in one district and immediately moving to an adjoining district.

3. The apportionment of the general school fund for the year beginning July 1st, annually, is based on the census list prepared, taken between the 10th day of April and 1st of May preceding, and there is no exception to this rule, except in case of formation of new districts; nor is there any provision whereby this fund can be transferred from one district to another, after said census has been taken, although the pupils might remove from one district to the other.

4. According to the school law the county superintendent apportions the general fund among the districts according to the number of

persons of school age as shown by the census lists and reports of the district for the school year immediately preceding. What the per capita will be depends upon the amount of funds in the treasury and the number of children within your county.

59. **Apportionment.**

The county superintendent shall apportion the funds aforesaid among the districts entitled to the same, according to the number of persons of school age, as shown by the census lists and reports of the several districts for the school year immediately preceding, as provided in section seventy-two. [M. A. S., 4038.]

NOTE—Section 72 above referred to is section 58 herein.

Apportionments, when and how made.

1. There are only two apportionments of the school fund by the state superintendent during the year, one in January and one in July. Other apportionments, if any, are made by the county superintendents. (See sections 184 and 57 herein.)

2. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list and the district given its per capita for such additional names.

3. The laws do not permit the transference of the pro rata of the general fund to another district in case of pupils being listed in one district and immediately moving to an adjoining district.

4. According to the school law the county superintendent apportions the general fund among the districts according to the number of persons of school age, as shown by the census lists and reports of the districts for the school year immediately preceding. What the per capita will be depends upon the amount of funds in the treasury and the number of children within your county.

COUNTY TREASURER.

60. Duties of county treasurer.

It is hereby made the duty of the county treasurer in each county, to keep a separate account with each school district in his county, to place to the credit of each the amount of money as certified to by the county superintendent, as provided in section nineteen, and to pay over the money so collected, upon the presentation of the legally-drawn warrants or orders of the district officers entitled to draw the same; *Provided*, That if the county superintendent shall notify the county treasurer, in writing, that there has been a failure on the part of any board of directors to comply with the law, and that said money should be withheld from said board of directors, he shall retain the same until further notice from the county superintendent; on or before the 5th day of July in each year, he shall render, to the county superintendent of schools, a statement of the receipts and disbursements on account of the several districts, of all the school funds which have passed through his hands during the school year next preceding, and at the same time he shall render to each district secretary a statement of receipts and disbursements of such district. All money which shall become forfeited by any district shall be put into the general school fund, and be re-apportioned as other moneys. [M. A. S., 3990.]

NOTE—Fees for collecting taxes, section 65 herein.

NOTE—Report fines collected, section 101 herein.

NOTE—Section 19 above referred to is section 57 herein.

Legal custodian of school funds.

1. The county treasurer is the only legal custodian of the school funds. The district treasurer has no legal right to hold in his possession any of the general, special or bond fund, nor have the directors of a school district any legal right to issue orders on the county treasurer, except in favor of those parties to whom the district is legally indebted. In the payment of school bonds, the district treasurer has control of the funds only during the times of advertising and subsequent payment.

2. Funds of first class districts must remain in the hands of the county treasurer and be drawn upon through warrants made out by the district board, as in districts of the third class. The law makes no provisions for the handling of the funds.

Keep account school funds.

3. The law does not require the county treasurer to keep several accounts of the special fund of a district.

4. A school district can not lawfully transfer its apportionment of the general fund or any portion thereof to another district.

5. A county treasurer can legally pay only such warrants as are issued against the school fund of the current year.

6. All moneys remaining to the credit of any district on June 30 should remain to the credit of such district and can not be turned into the general school fund of the county for reapportionment.

Penalties—fines.

7. As a rule, the money for schools from these sources (derived from fines, penalties, etc.) should be turned by the county treasurer into the general school fund of the county rather than into that of a particular district; although fines assessed by justices of the peace may, in some cases, go to the credit of the school district in which the action occurred. Generally speaking, the proceeds of all fines or forfeitures should be placed by the county treasurer to the credit of the general school fund of the county, unless otherwise expressly provided by statutes.

8. County treasurers should place the money arising from fines collected, and belonging to the school fund, in the general fund.

9. The county treasurer is responsible if moneys are turned into the wrong fund by him. It is his duty to place money collected from fines, forfeitures, etc., to the fund designated by law.

61. County treasurer certify school moneys collected—pay over—failure—penalty.

The county treasurer shall, on or before the first day of January, April, July and October, of each year, certify the amount of said tax which shall have been collected, and the amount of any other county school money, then in the county treasury, to the county superintendent, and shall render him a statement of the amount uncollected. The amount unpaid shall be collected at any subsequent time, as delinquent taxes, are collected, and shall be certified to the county superintendent, as aforesaid. Should the treasurer fail at any time to pay over the tax, as herein provided, he shall forfeit the sum of one hundred (100) dollars, and double damages, to be collected on his official bond; suit to be brought by the county superintendent, for the benefit of his county [school fund]. [3 Mills (Rev.). 4030.]

NOTE—County treasurer pay school orders, sections 59, 60, 61.

62. Treasurer keep separate accounts—warrants.

It shall be the duty of the county treasurer to open and keep separate accounts with each school district in his county, and hold the funds of each district, subject to the legal warrants of the president, as provided by section 53 of this chapter. If the legal warrant of any school district in his county be presented to the county treasurer when there are no funds in his hands to the credit of the district fund against which the warrant is drawn, he shall endorse such warrant "No funds," and said warrant shall draw interest from the date of such endorsement at the same rate as county warrants in like condition. The treasurer shall keep a list of all warrants so endorsed, and shall pay them whenever there is sufficient money to the credit of the proper fund in the order of such endorsement. The in-

terest on such warrants shall stop when the treasurer shall give notice that he has funds to pay the same; *Provided*, It shall not be lawful for the officers of any district to issue warrants at any time in an amount in excess of the tax levy for the current year. [M. A. S., 4033.]

NOTE—Duties of county treasurer, in matters of school funds, section 60.

NOTE—See following section as to time of payment.

NOTE—Section 53 above referred to is section 73 herein.

Legal notice.

1. A legal notice, under this section, is a publication for twenty days in some newspaper, published at the county seat of such county.

Warrants.

2. The total amount of school warrants issued must not exceed the amount of tax levy for the current year.

3. "It shall not be lawful for the officers of any district to issue warrants in excess of the tax levy for the current year." The "current year" is identical with fiscal year, beginning December 1st and ending November 30th.

4. The above section provides:

"It shall not be lawful for the officers of the district to issue warrants at any time in any amount in excess of the tax levy for the current year."

In this provision the words "tax levy" must be construed to mean "the revenues of the district," including the county fund, the state fund and the fees derived from fines and penalties.

"If a school district, on account of some unforeseen casualty or expense, or for some unexpected failure of revenue, should incur an expense in excess of its revenue, it would be its duty to levy a sufficient amount of tax the following year to pay such indebtedness, in addition to its expense for said year.

"No warrants can be issued in excess of the revenue, but a certificate of indebtedness should be issued, payable out of the revenues of the succeeding year, and it would be the duty of the board during the succeeding year to draw a warrant for its payment."

5. Funds of first class districts must remain in the hands of the county treasurer and be drawn upon through warrants made out by the district board, as in districts of the third class. The law makes no provision for the handling of the funds.

6. When school districts warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss. It is not legal for the school board to make up the discount.

7. Warrants in excess of the revenue for the year are void.

8. The county treasurer is the only legal custodian of the school funds. The district treasurer has no legal right to hold in his possession any of the general, special or bond fund, nor have the directors of a school district any legal right to issue orders on the county treasurer, except in favor of those parties to whom the district is legally indebted. In the payment of school bonds, the district treasurer has control of the funds only during the times of advertising and subsequent payment.

9. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay

the warrants, would not be legal. The voters have no authority to vote a levy except for the current year. It would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

10. A teacher, having accepted a stipulated salary, can receive that salary only by warrants drawn by the district secretary, and takes them for what they are worth. It would not be proper for the board to simply supplement, by an additional warrant, the shrinkage of irregular warrants on account of the discount in the market. The deficit may be made good by the board, at a regular meeting, voting to advance the salary so as to cover the shrinkage in value of the depreciated warrants.

11. A county treasurer can legally pay only such warrants as are issued against the school fund of the current year.

63. Pay school orders as registered.

It shall be the duty of the county treasurer of each county in this state, when there are sufficient funds to the credit of any school district, or to the credit of any school fund of any such district, to pay in full the principal and interest of any orders which may be on such fund, in the order of their registration, and if at any time there shall be \$200 in the hands of such treasurer, to the credit of any such fund, it shall be his duty to cause to be published in some newspaper published at the county-seat of such county, for twenty days, a notice that certain school orders (describing same by numbers and amounts) will be paid upon presentation, and at the expiration of said twenty days' advertisement, such orders shall cease to bear interest. [M. A. S., 4031.]

64. Failure to publish call—penalty.

Whenever the treasurer of the state of any county, city, town or school district shall have in his hands any moneys applicable to the payment of any state, city, town, county or school district warrant, and shall fail or neglect for thirty days to publish a call as provided by law for the presentation and payment of warrants, he shall be deemed guilty of a misdemeanor and, upon conviction, shall be liable to a fine not less than ten nor more than three hundred dollars. [3 Mills (Rev.), 1303a.]

65. Treasurer's fees—school taxes.

The county treasurer shall charge and receive the following fees and commissions: * * * * *

Upon all school taxes in counties of the first class, one per cent.; in counties of the second class, one per cent.; in counties of every other class, one per cent. on school taxes, and two per cent. on town and city taxes. * * * [3 Mills (Rev.), 1899.]

DEAF AND BLIND SCHOOL.

66. Institute located at Colorado Springs.

There shall be permanently maintained at the city of Colorado Springs, in the county of El Paso, an institution for the support and education of the mute and blind residing within the state of Colorado. [M. A. S., 3249.]

67. Body corporate—name—powers.

Such institute shall be a body corporate under the name of "Colorado School for the Deaf and the Blind," and may sue and be sued, may take and hold real estate by gift, devise or otherwise, for the use and benefit of such school. [3 Mills (Rev.), 3250.]

68. Admission of pupils—support—county superintendents—report.

Every blind, deaf or mute citizen of the state of Colorado, of sound mind, over six (6) and under twenty-one (21) years of age, shall be entitled to receive an education in said institute at the expense of the state. All applicants above the age of twenty-one (21) years may be admitted at the option of the board. Each county superintendent of common schools shall report on the first day of June in each year to the superintendent of the school for the education of the deaf and blind, the name, age, and post-office address of every blind or deaf person of suitable age for admission to said school, residing in his county, including all such persons as may be too deaf or blind to acquire an education in the common schools. Applicants for admission to said school from other states, if within the ages prescribed by this section, may be admitted upon payment of such a sum quarterly as the board of trustees of said school may determine. [3 Mills (Rev.), 3253.]

NOTE—County superintendent ascertain number of deaf mutes, section 56.

Attendance not compulsory.

1. Attendance is not compulsory at the state school for the deaf and blind.

DIRECTORS.

69. Directors—classification of districts.

There shall be elected in each school district of this state, annually, and in the manner prescribed in section forty-four of said chapter, a board of directors. The number of persons that shall constitute each board of directors shall be determined as follows: The school districts shall be classified into first (1st), second (2d) and third (3d) classes. Districts containing a school population of more than one thousand (1,000) shall be denominated districts of the first (1st) class; districts containing a school population of three hundred and fifty (350), and not exceeding one thousand (1,000), shall be denominated districts of the second (2d) class; and districts containing a school population of less than three hundred and fifty (350) shall be denominated districts of the third (3d) class. At the regular election in 1887, as provided in section forty-four (44) of said chapter, all districts in the first (1st) class, shall elect by ballot, one (1) director for three (3) years; and at the regular election in 1888, one (1) director for three (3) years and one (1) director for four (4) years; and at the regular election in 1889, one (1) director for four (4) years and one (1) director for five (5) years; and annually thereafter there shall be elected one (1) director for five (5) years. All districts of the second and third classes shall elect one (1) president for three (3) years, one (1) secretary for two (2) years, and one (1) treasurer for one (1) year, and annually thereafter there shall be elected for three (3) years a person to fill the vacancy occurring; *Provided*, That this shall not apply to districts of the second and third classes already organized. School boards of the first class shall, at their first meeting after their election, elect a president, who shall be a member of the board, a secretary, who may or may not be a member of the board, and a treasurer who shall not be a member of the board, and who shall hold office for one year and until their successors are elected and qualified. In districts of the first and second classes, the boards, after organization, shall exercise all the power given the electors of districts of the third class, as specified in section sixty-three of said chapter. [M. A. S., 4005.]

NOTE—Sections 44 and 63 above referred to are sections 92 and 98 herein.

Qualifications of directors.

1. There is nothing in the laws of Colorado to prevent a person who fills the office of district judge from also filling that of school director, the two offices belonging to an entirely different class.

2. The fact that two members of a school board are of one family, and that the further fact that another member became a resident of the district for the sole purpose of becoming an officer, so long as he is an actual resident, would not affect the regularity of the organization of the board.

3. The length of residence required in Colorado to constitute eligibility to the office of school director is twelve months.

4. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

5. There is no section of the school law which requires any one elected president of the school board in a first class district to take an oath of office as president of the board if he has, upon his election by the people as a member of the board, taken the required oath.

Election of directors.

6. When directors for a new district (not of the first class) are elected they hold office only until the ensuing regular election (section 86, school law), when a full board shall be elected, as indicated for all districts of the first and second class in section 69, viz.: One (1) president for three (3) years, one (1) secretary for two (2) years and one (1) treasurer for one (1) year; and annually thereafter there shall be elected for three (3) years a person to fill the vacancy occurring.

7. If a school district was organized after the annual school election in May 1900, the officers elected at the time of the organization would only hold office until the annual election of May, 1901. In May, 1901, members of school boards should be elected as follows: President for one year; treasurer for two years, and secretary for three years.

This is in accordance with an opinion given by the attorney general, in 1897, and applies to all school districts organized since 1887.

8. At the regular election held in May of this year (1905), treasurer is to be elected.

9. Since district twenty-three has been irregular in its election and a vacancy occurs it will be necessary to elect the president for two years. In 1906 elect a treasurer for two years and in 1907 elect a secretary for two years and a president for three years, which will then place them in order with regularly organized districts.

10. School districts organized since April 4, 1887, would this year (1901) elect one secretary for three years, or in case of vacancy would elect one treasurer for two years, or in case of vacancy would elect one president for one year.

Districts organized between February 27, 1883, and April 4, 1887, would elect this year (1901) one president for three years, or in case of vacancy one secretary for two years, or in case of vacancy one treasurer for one year.

Districts organized prior to February 27, 1883, would elect this year (1901) one treasurer for three years, or in case of vacancy one president for two years, or in case of vacancy one secretary for one year.

Classification of districts.

11. A school district of the second class having become a first class district, the board, at the first meeting after election, should proceed to elect new officers (president, secretary and treasurer), as provided in section 69. The officers of the old district do not hold over after the change has been effected.

There is no way in which a district could be declared to be a first class district simply because its census list is known before the time of the school election of this year to have reached the number required for a first class district. When the census list of any year shows

that a district contains the required school population to entitle it to become a first class district, the organization as a first class district is made through electing a board of five members at the next annual election.

12. Directors can not exercise the powers given electors of districts of the third class, after filing annual census of 350 children previous to the annual election. The board will reorganize after the annual election and after the census list is examined, compared as required of the county superintendent in section 186 of the school law, and is found to be correct in giving the district the necessary number for a second class district.

Witness fees not allowed.

13. School directors are not legally entitled to witness fees in a case where the district is a party.

Secretary and treasurer—offices distinct.

14. The law makes distinct specifications in regard to the separate offices of secretary and treasurer in a first class district, making those offices as distinct as in third class district, where different persons must be elected as to the two offices. The business of the district could not be legally transacted with one person acting in the two capacities.

15. The offices of secretary and of treasurer of first class districts are distinct and should be filled by two different persons.

70. Directors qualify within twenty days—vacancies—treasurer's bond and report—oath of office.

The directors shall each, within twenty (20) days after his or her election, appear before some officer authorized to administer oaths, and take oath that he or she will faithfully perform the duties of his or her office required by law, which oath shall be filed with the county superintendent; and, in case of failure so to qualify, his or her office shall be deemed vacant, and the county superintendent shall appoint a suitable person, who shall qualify immediately. If the amount of money liable to come into the hands of the treasurer, in the discharge of his official duties, exceed twenty dollars at any one time, he shall be required to give bond in double the amount of money liable to come into his hands, said bond to be approved by, and filed with, the county superintendent. The directors-elect shall take office immediately after qualifying, as aforesaid; *Provided*, That any district treasurer, who shall refuse to give bond as above, when required to do so by the other members of the board, shall be disqualified from receiving any money on district account until a satisfactory bond is executed. The oath of office required in this section may be administered by a president of a school board; and it is hereby made the duty of the district treasurer of all first class districts to publish, semi-annually, in some newspaper published within the county wherein such district may be located, a complete and full report of all receipts and expenditures of the said district's funds. [M. A. S., 4011.]

Oath of directors.

1. All school directors are required by law to file an oath of office with the county superintendent. This applies to such cities or districts in Colorado as are organized under a special charter.

2. It is not lawful for a member of a school board located in one state to take his oath of office, or qualify for the office, in another state from that in which the district is located.

3. Failure of a school director to file oath within the time required by law does not create a vacancy in the office; *Provided*, Said oath has been taken before the proper officer within the required time.

4. The secretary of a school district of the second or third class can not administer the oath of office to the president. The oath may be administered by the president of any school board, or by the county superintendent; and, of course, by any person such as notary public, justice of the peace, etc., qualified by law to administer oaths.

5. It is lawful for a president of one school district to administer the oath of office to the board of another school district.

Directors qualify in twenty days.

6. The law provides that the directors shall qualify within twenty (20) days after their election, and as there is no provision that directors who are elected to succeed themselves shall not file a new oath of office, such oath should be filed.

7. A person elected to the office of director of a school district can not legally qualify after the expiration of twenty days from election. By operation of the law, in case of failure of the director-elect to qualify within twenty days, the office becomes vacant.

8. If the president of a school board is duly elected, but fails to qualify within the legal time, the office becomes vacant and the county superintendent should appoint some one in his place.

Vacancies, how filled.

9. Vacancies that may occur in a district of the second or third class, through failure to qualify, or through absence from the district, death, resignation, removal or otherwise, are to be filled by appointment of the county superintendent only until the ensuing regular election, at which time the vacancies shall be filled for the unexpired terms, not for regular full terms.

10. A school director appointed by the county superintendent to fill a vacancy holds office until the ensuing regular election.

Bond of directors.

11. The law does not provide that it is a duty of the county superintendent to send bonds to newly elected directors.

12. A county superintendent is the proper person to approve of the official bond of a school director, and if a person elected to that office can not give a satisfactory bond, it works a vacancy in the board after twenty days from his election.

13. A county superintendent has authority to require a district treasurer to give bond in double the amount of money liable to come into his hands, if such amount exceeds twenty dollars.

Directors must reside in district.

14. The law requires that a person who desires to be a candidate for a school director must reside in the district, and it necessarily follows that in order to remain such director, after election he must continue to reside therein, and when he permanently removes from the district he ceases at that instant to be a director.

Who may be a director.

15. The mayor of a town may also legally hold the office of school director, inasmuch as the duties of mayor and school director do not conflict.

71. Regular meetings of board—special—adjourned.

The regular meeting of each board shall be held on the last Saturday of March, June, September and December. The board may, however, hold such other regular, special or adjourned meetings as they may from time to time determine, or as may be specified in their by-laws. [M. A. S., 4014.]

Meeting place—notice of meeting.

1. If the school board chose to revoke its rules concerning the place where a school meeting must be held, it would have a right to do so.
2. A meeting of a school board can not be properly held unless reasonable notice has been given to all members.

Special meetings.

3. In the case of a special meeting legally held the business there transacted would not be invalidated through the failure of the secretary to send a formal report to the county superintendent of the business thus transacted, although it is the duty of the secretary to send such a report.
4. It is illegal to transact any business at a special meeting, except that for which the special meeting was called.
5. It is illegal for two members of the board to transact business that has not been decided upon at a regular or special meeting of the board. If the specifications in regard to the digging of the well were definitely stated at a regular or special meeting, it would be necessary to call another meeting of the board to change those specifications.

SPECIAL DISTRICT MEETINGS.**72. Special meetings in districts of third class.**

In any district of the third class, the board of directors may at any time call a special meeting of the electors of such district, for any of the purposes specified in section sixty-two of this act, and it shall be their duty to call such meeting if petitioned so to do by ten (10) legal voters of the district. Notices, specifying the time, place and object of such meeting, shall be posted in three (3) public places, one of which shall be at the place of meeting, at least twenty (20) days prior to the time of holding such meeting. [M. A. S., 4026.]

NOTE—Classes of districts—election of directors, section 69.

NOTE—Section 62 above referred to is section 98 herein.

Purpose of meeting.

1. In a third class district the tax levy has to be submitted to the voters. Twenty days' notice of special meeting for this purpose must be given.
2. The question of uniting two contiguous school districts may be voted on at the annual school meeting in May, providing the necessary notice for a special meeting be given—that is, notices stating the purpose of the meeting must be posted at least twenty days before the time the meeting is to be held. The notices for the annual meeting will be sufficient notice if in addition to the notice of the election, a statement of the special business to be transacted is made, and at least three notices are posted in the district twenty days previous to the date of the meet-

ing, instead of the six days' notice, which is all the time that is required for the annual meeting.

3. It is considered illegal to transact any business at a special meeting, except that for which the special meeting was called.

4. The location of a school house is for no definite time. A vote may be taken on the question of moving the school house as often as a meeting for the purpose can be legally called.

5. According to legal decisions in this state, a special tax can be voted at other than the annual meeting. Paragraph 4, section 98, of the school law has been interpreted, in connection with the introduction of section 98, to authorize this.

6. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy. This is not in any way to be considered changing the original levy, but simply voting an additional levy.

7. If a teacher has been employed to teach a certain department of a school, the school board would not have the right to close another department and require one teacher to do the work of both departments, unless such an arrangement had been made in the contract entered into between the teacher and the board. The only way by which a teacher's salary can be legally increased during the term for which she is employed would be at a regular or special meeting of the school board.

8. It is illegal for two members of the board to transact business that has not been decided upon at a regular or special meeting of the board. If the specifications in regard to the digging of the well were definitely stated at a regular or special meeting, it would be necessary to call another meeting of the board to change those specifications.

9. Section 72 provides for the relief of the electors, in case the board do not make necessary provisions for the schools.

Notice of special meetings.

10. The law provides that notices specifying the time, place and object of special meeting shall be posted in three public places, one of which shall be at the place of meeting, at least twenty (20) days prior to the time of holding such meeting.

Since the notice was not posted the length of time required by law, the meeting was not legally called. The directors may call another meeting.

11. A special meeting of the voters of a district is legal only when twenty days' notice of such meeting is given.

12. The notice calling a special meeting is legal, even though the date of the notice has been omitted; *Provided*, That said notice has been posted the required number of days, and the special meeting was called at a regular meeting of the school board at which a quorum was present.

13. A meeting of a school board can not be properly held unless reasonable notice has been given to all members.

14. A special meeting if called and held in accordance with the provisions of the law is legal, even though the county superintendent is not notified of the meeting.

15. When the president of a school board calls a meeting, the notice would not meet the requirements of the law unless the time and place of meeting were definitely specified.

16. More than one question can be voted upon at a special meeting of the electors of a third class school district; *Provided*, Each question is separately stated in the notice of such meeting.

Who may call.

17. As to whether or not the president of the board has power to call a special meeting when he desires so to do, depends altogether upon the by-laws governing the board.

18. At a regular meeting of a school board, two members of said board, constituting a quorum, can legally call a special meeting.

Valid though not reported to county superintendent.

19. In the case of a special meeting legally held the business there transacted would not be invalidated through the failure of the secretary to send a formal report to the county superintendent of the business thus transacted, although it is the duty of the secretary to send such a report.

Taxes—when illegal.

20. In the call or notice of a special or annual school meeting it is illegal to specify the amount of a proposed levy and to require electors to vote for or against the levy thus proposed, without discussion or amendment.

Vote of district.

21. Section 128, school law, provides that in districts of the first and second classes, that no school board shall build or lease any building especially for high school, unless authorized to do so by a vote of the district, as provided in section 72, which provides for the manner in which the meeting shall be called.

Two directors transact business.

22. If all the directors were legally notified of the special meeting and one failed to attend, the two members present could legally transact the business for which the said meeting was called.

73. President sign orders—appear in suits—absence—vacancies.

The president, when present, shall preside at all meetings of the board and of the district; shall sign all orders on the county treasurer for the payment of money; *Provided*, That no orders shall be drawn upon the county treasurer except in favor of parties to whom the district has become lawfully indebted. He shall appear in behalf of his district in all suits brought by or against the same, but when he is individually interested, this duty shall be performed by the secretary, and in the absence of the president the secretary shall preside at board and district meetings. Absence from the district of any school officer, when prolonged beyond thirty consecutive days, may be held to work a vacancy in said office, which may be filled according to law. [M. A. S., 4017.]

Orders signed by president.

1. A contract made by a majority of the school board is a legal contract; *Provided*, Such contract is made at a regular meeting of which all directors had legal notice. The law makes it mandatory that the president sign all orders on the county treasurer for the payment of money; *Provided*, That no orders shall be drawn upon the county treasurer except in favor of parties to whom the district has become lawfully indebted.

Auditing of bills against district.

2. The auditing of bills against a school district must be performed by the board of directors at a meeting thereof, and vouchers or warrants

issued for the payment of such bills are legal only when issued by a vote of a majority of the board at such meeting.

3. A debt can only be contracted by a majority of the members of the board at a regular meeting, or at a special meeting called for that purpose. As the auditing of bills for an indebtedness is an entirely separate act from the contracting of the same, it necessarily follows that they must be performed at different times. The bills should be audited at a meeting of the board of directors, and the vouchers or warrants for such indebtedness be ordered issued by a majority of said board.

Compensation of secretary.

4. A school board has the right to fix the compensation to be allowed the secretary for the time necessarily spent in the service of the district, as required by law or as directed by the board, and in section 73 of the school law it is stated that no orders shall be drawn upon the county treasurer (by the district board) except in favor of parties to whom the district has become lawfully indebted. It is the province of the board to decide the proper compensation for the secretary's duties, providing always that the board's provision for such compensation is just and reasonable and in compliance with the law.

District warrants.

5. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss.

6. A teacher, having accepted a stipulated salary, can receive that salary only by warrants drawn by the district secretary, and takes them at their face value. It would not be proper for the board to simply supplement, by an additional warrant, the shrinkage of irregular warrants on account of the discount in the market. The deficit may be made good by the board, at a regular meeting, voting to advance the salary so as to cover the shrinkage in value of the depreciated warrants.

7. A warrant sent to, and receiving the signature of, a director while absent from the state is legal.

8. The auditing of bills against a school district must be performed by the board of directors at a meeting thereof, and vouchers or warrants issued for the payment of such bills are legal only when issued by a vote of a majority of the board at such meeting.

Suits against district.

9. If a suit is brought against a district, it is the duty of the directors to defend it, to employ an attorney if necessary, who may be paid from the district's funds; but if the suit is against the board of directors, or any of them, for failure to comply with the law, any cost for defense must not be charged against the district.

10. If an attorney is employed to defend an action brought against the district, then the district must pay his fees; but if brought against the individual directors, they must pay their own attorneys' fees.

Vacancies.

11. Vacancies that may occur in a district of the second or third class, through failure to qualify, or through absence from the district, death, resignation, removal or otherwise, are to be filled by appointment of the county superintendent only until the ensuing regular election, at which time the vacancies shall be filled for the unexpired terms, not for regular full terms.

12. Absence from the district of any school officer when prolonged beyond thirty consecutive days may be held to work a vacancy in said office and gives the county superintendent a right to appoint some one else in his place. The fact that his absence was unavoidable and that his family remain in the district does not change the condition.

13. If a director is absent from a district for thirty days, no matter whether he still retains his residence in the district and expects to return to the district, the county superintendent should appoint a person to fill his place, if he considers that the educational interests of the district suffer through the absence of the original director.

14. The clause, "Absence from the district of any school officer, when prolonged beyond thirty days, may be held to work a vacancy in said office," is construed to mean being out of the district for more than thirty days.

15. The absence of a school director from his district for a period of thirty days gives the county superintendent a right to appoint some one else in his place. It is not compulsory that the county superintendent appoint some one in the place of the absent member, but he should do so if, in his judgment, the interests of the district are suffering from such absence, or if the electors demand such appointment.

16. When a school director of a third class district removes his family from the district, going with them himself, but retaining his postoffice address in the district and coming into said district once in thirty days only, he ceases to be a bona fide resident of such district and his office becomes vacant.

17. A school director appointed by the county superintendent to fill a vacancy holds office until the ensuing regular election.

18. The law requires that a person who desires to be a candidate for school director must reside in the district, and it necessarily follows that in order to remain such director, after election he must continue to reside therein, and when he permanently removes from the district, he ceases at that instant to be a director.

74. Duties of secretary—bond.

Before entering upon the duties of his office, the secretary shall execute a bond, with two sureties, in the penal sum of five hundred (500) dollars in districts of the first and second classes, and the penal sum of one hundred (100) dollars in districts of the third class, conditioned upon the faithful discharge of his official duties and the delivery of all district property pertaining to his office over to his successor, within ten days after a demand is made for the same by a qualified successor, said bond to be approved by and filed with the county superintendent. The secretary shall record all proceedings of the board and of district meetings in a book or books, kept for that purpose; shall preserve copies of all reports made to the state or county superintendents; shall file all papers transmitted to him by other school officers pertaining to the business of the district; shall draw and countersign all warrants or orders issued by the board; shall keep a register or stub of all orders drawn, showing the number of the order, date, amount, in whose favor and for what purpose drawn. Immediately after the election of one or more directors, according to law, he shall transmit to the county superintendent a statement giving the name and postoffice address of the president, secretary and treasurer, respectively, of the boards of directors. Between the 10th day of April and the 1st day of May, in each year, the secretary, or some person authorized by him, shall take a census of all persons over six years and under

twenty-one years of age, who were *bona fide* residents of the district on the 10th day of April aforesaid. The names so listed shall be arranged alphabetically, and be so classified as to distinguish between male and female. The census list shall be sworn to as correct by the person taking the same, and, if such person be other than the secretary, shall be certified by the secretary, and shall be forwarded to the county superintendent on or before the first day of June of the current school year. In districts of first and second classes a copy shall be delivered to the principal teacher or superintendent of the districts, and in all cases a copy shall be retained in the office of the secretary. [M. A. S., 4019.]

Duties of secretary.

1. The secretary is the proper custodian of the books, papers and documents of a district school board, and is the one authorized to draw all warrants issued by the board, these to be countersigned by the president and treasurer.
2. It is not the duty of the secretary of the board to draw a warrant unless the order for such warrant appears upon the written records of the board.
3. If a secretary of a school board should falsify his records, he would violate his bond.

Census list.

4. No name can be added to a census list after said list has been filed with the county superintendent.
5. The census list may be sworn to before any officer authorized to administer oaths.
6. The names of all persons of school age must be included in the census. The law makes no exception in regard to married persons.

Residence in district—how determined.

7. The fact that the head of a family pays a tax in a certain school district does not of itself give his children the privileges of the school in that district. Children may attend school free of charge only in the district in which their parents or guardians are *bona fide* residents.
8. If the home of a family is certified to be in a district, and if the children have been listed upon the school census of that district, the children would have the right to attend the school without tuition, even if the family spends a large part of the year elsewhere. In the case of pupils attending before the family moves into the district for the winter, the same rule would apply.

If the district is the declared home of the family, and if the children have been previously listed upon the census list, they would have the right to attend the school without tuition, even if the remainder of the family were at present residing elsewhere.

9. Since the parent is a resident of the state, the boy's residence should be held to be identical with the *bona fide* residence of the parent.

If the home of a family is certified to be in a district, and if the children have been listed upon the school census of that district, the children would not have the right to attend in another district, without paying tuition.

10. The residence of the parents or guardians determines the school district in which the children's names should be listed. In case the

mother has one legal residence and the father another, the residence of the mother determines the residence of the children.

11. An emancipated minor has a right to declare his residence, and is entitled to all the school privileges of the district of which he is, *bona fide*, a resident.

12. In the case of families living in one school district, but sending children to school in another district, the children must be listed in the district in which the parents reside, and not in the district in which they attend school.

13. Where a family resides regularly a part of the year in one district and a part of the year in another, the residence for school purposes should be the one held in good faith on the 10th day of April.

14. That place shall be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

A person shall not be considered or held to have lost his residence who shall leave his home and go into another state or territory or county of this state for temporary purposes merely, with the intention of returning.

15. A non-resident of a school district is one whose permanent dwelling place is not within the boundaries of that district.

16. The residence of a minor is the residence of his parents or guardian.

17. If a person moves his family into a school district for the purpose of availing himself of the advantages afforded by that district, and subsequently, during the school year, removes from the district, he is not a resident of such district, within the meaning of the term as used in the school law of Colorado. The following is taken from a decision of the supreme court of Wisconsin (N. W. Rep., Vol. 41, page 1,014): "Effort has been made to guard against the precipitancy of non-residents to points where superior advantages exist, and schools of high order are maintained, by holding that such children only are entitled to free tuition as are actually residing in the district for other reasons, as a main purpose, than to participate in the advantages which the school affords."

18. Considerable difficulty is sometimes experienced in determining "*bona fide*" residence. The law defines the residence of an unmarried person of school age (that is, of a minor) "to be identical with the *bona fide* residence of the parent or guardian of such person; *Provided*, That such parent or guardian be a resident of the state."

19. A person may retain his residence in a district, if, at the time of leaving the district, it was his intention to return.

20. The word "residing," as used in section 154 of the school law, has reference to a permanent residence.

21. An unmarried person under twenty-one can claim residence where the parents reside, whether absent from home, at school or at work.

22. Every unmarried person under twenty-one is entitled to draw school money.

23. In determining the residence for the purpose of taking school census it matters not where the unmarried person of school age may be whose parent or guardian lives in the state, the residence of such person is fixed by the *bona fide* residence of the parent or guardian, and this must be determined by the census enumerator.

24. The fact that a person pays taxes in two counties does not give him the right to send children to school in both districts in which the taxes are paid. A man's residence can only be in one place, and the place where the home is permanently located determines the district where the children have a right to attend school.

25. Residence under the school law means a person's real home, not a temporary abiding place.

When people move into a town at the beginning of school, expecting to return to their permanent home at the close of school, they can not claim residence, and the school board has a right to charge tuition to children sent to school by such families.

26. If the parents or guardian of a child remove from a school district, claiming a residence elsewhere, the child is not properly a resident of the district from which the parent or guardian has moved.

27. A child who is living with a *bona fide* resident of a district and dependent upon such resident for a living is entitled to attend school in such district free, though the parents of such child are living in another district.

28. If parents own no home in a particular district, but rent while the children go to school there, and return to a ranch which they own in another district as soon as school is out, the district in which the ranch is located should enroll the children upon the census list.

29. If renters renting by the year and having no other home send children to school, the district in which they are residing in a rented house should enroll the children.

If renters rent by the month, leaving when school is out, and having a fixed home elsewhere, the children should be enrolled in the district where the fixed home is located.

If renting by the month and having no home elsewhere, although leaving when school is out, the children should be enrolled in the district where they rent.

If the mother votes in a certain district, living there with the children, that would be her residence and the children should be enrolled in such district.

30. A person of school age can not be enrolled in the school census of a district in which he does not reside, though his father is employed and boards in said district and claims his residence therein, when it appears that such person of school age has never actually been in said district and when he actually lives in a foreign country or state or when he is properly enrolled in any other school district in this state.

31. It would not be legal to enroll the persons of school age belonging to the state industrial school in Jefferson county upon the census lists of the school district or districts where the school is located, providing such persons have a residence elsewhere. The names of such persons would appear upon the census lists and would draw from the general school fund for the benefit of the districts in which is their true residence, and the state makes its own special provision for the education of such persons in the industrial schools.

Census of deaf and blind.

32. Deaf mutes and blind persons between the ages of six and twenty-one should be included in the school census.

Apportionment of school fund based on census.

33. The apportionment of the general school fund for the year beginning July 1st annually is based on the census list prepared, taken between the 10th day of April and 1st of May preceding, and there is no exception to this rule, except in case of formation of new districts; nor is there any provision whereby this fund can be transferred from one district to another after said census has been taken.

75. Further duties of secretary—report.

The secretary shall keep an accurate account of the expenses incurred by the district, and shall present the same to the board

whenever called upon. He shall give the required notice of all regular and special meetings, as herein authorized. On or before the first day of August of each year he shall make out and file in the office of the county superintendent, a report of the affairs of his district. Said report shall be made upon blanks prepared by the superintendent of public instruction containing such items of information as the said superintendent shall require, including the following, viz.:

First—The number of persons, male and female, each, in his district, between the ages of six (6) and twenty-one (21) years.

Second—The number of schools and the branches taught in each.

Third—The number of pupils in each school.

Fourth—The number of teachers employed in each school, and the compensation of each per month.

Fifth—The number of days the school was taught during the year then past and by whom.

Sixth—The number of pupils enrolled during the year; the average daily attendance.

Seventh—The average cost of school per month for each pupil, based upon the total enrollment, and also the average cost, based upon the average daily attendance. In estimating these averages the secretary shall take account of the teachers' wages; all current expenses, and six per cent. interest upon a fair valuation of all property belonging to the district.

Eighth—Text books used in each school.

Ninth—The number of volumes in the library of each school.

Tenth—The aggregate amount paid teachers during the year, and the average monthly pay of teachers.

Eleventh—The number of public school houses, and the estimated value of each.

Twelfth—The amount raised by tax in the district during the year for school library.

Thirteenth—The amount raised by subscription or by other means than by tax.

Fourteenth—The amount of special tax levied for the support of schools and for building sites, and furniture.

Fifteenth—The amount of money on hand at the beginning of the year then past.

Sixteenth—The amount of money received from all other sources than those herein specified.

Should the secretary fail to file his report, as above directed, he shall forfeit the sum of one hundred (100) dollars, and shall make good all loss resulting to the district from such failure.
[M. A. S., 4020.]

Secretary give notice.

1. A meeting of a school board can not be properly held unless reasonable notice has been given to all members.
2. The secretary of the board would have no authority to post notices calling a meeting at any other than the regular place of meeting without the consent of at least one of the other members of the board.

Valid though not reported to county superintendent.

3. In the case of a special meeting legally held, the business there transacted would not be invalidated through the failure of the secretary to send a formal report to the county superintendent of the business thus transacted, although it is the duty of the secretary to send such a report.

Special tax levy.

4. The special tax levy should be made previous to sending in the annual report of the secretary of the district. The levy can be certified to legally by two members of the board.

Secretary violate bond.

5. If a secretary of a school board should falsify his records, he would violate his bond.

76. Secretary render statement—books open for inspection.

The secretary shall render a statement of the condition of the finances, as shown by the books, at any time when required by the school board, and his books shall always be open for inspection. [M. A. S., 4021.]

Notice for special tax.

1. It would be legal for you to vote a special tax at an annual meeting by giving the legal notice; *Provided*, That such special tax, together with any other special taxes levied for the given year, does not exceed the levy allowed to a district of your class.

77. Failure of secretary to report—duty of superintendent of public instruction.

Whenever a district secretary fails to file his annual report and census list with the county superintendent, according to law, thereby rendering it impossible for the said superintendent to apportion to such district any part of the general fund for the ensuing year, if it can be shown to the satisfaction of the superintendent of public instruction that such report and census list were prepared and reasonable diligence used to place the same in the hands of the county superintendent, and that such report and census list failed to reach said superintendent by reason of some accident or extraordinary occurrence; and if it be further shown that a public school was maintained in such district for not less than the minimum time required by the state constitution; and if it be also shown that duplicates of the missing papers have been placed in the hands of the county superintendent, or in his office, then the superintendent of public instruction shall direct the county superintendent to appor-

tion to such district its *per capita* share of the general fund distributed during the remainder of the year, as provided in section seventy-two. [M. A. S., 4039.]

NOTE—Section 72 above referred to is section 58.

NOTE—Report of Secretary, section 75.

78. Treasurer countersign warrants—render accounts—failure—penalty.

It shall be the duty of the treasurer to countersign all warrants drawn by the president and secretary on the county treasurer, in favor of parties to whom the district has become lawfully indebted, and to keep an account of the same. He shall take charge of all moneys received by him on account of the district from the county treasurer, as provided in sections ninety-one and ninety-two of this act, and pay out the same as therein provided. He shall render a statement of the finances of the district, as shown by the records of his office at the close of each school year, and at any other time when required by the board. For a failure to perform any of the duties of his office when directed by the board, or for refusing or neglecting to deliver to his legally qualified successor all money, books, or other district property in his possession or care, within ten days after the same shall have been demanded by such successor, he shall be liable on his bond, and shall make good any loss resulting to the district from such failure or neglect. [M. A. S., 4022.]

NOTE—Sections 91 and 92 above referred to are sections 12 and 13.

Warrants—signing of.

1. As to whether a school district warrant is legally drawn when signed by the president and secretary, and not by the treasurer, is a question for the county treasurer of the proper county to pass upon when the warrant is presented for payment. Should he pay such warrant and afterward, upon investigation, it be found to have been issued to some person or persons to whom the district was not justly indebted, he, the treasurer, would be liable on his official bond by reason of the fact that the warrant was not sufficiently authenticated, as provided in above section, which reads: "It shall be the duty of the treasurer to countersign all warrants drawn by the president and secretary on the county treasurer."

2. It is the duty of the treasurer of a school board to countersign all warrants drawn by the president and secretary on the county treasurer in favor of parties to whom the district has become lawfully indebted.

3. A warrant sent to, and receiving the signature of, a director while absent from the state is legal.

4. If one member of a school board refuses to sign an order, there is no way of compelling him to do so except through regular, legal procedure.

5. The county superintendent's signature is of no legal value in drawing warrants.

6. The president of the school board being the principal functionary, a warrant drawn without his signature is illegal.

7. It is the duty of each member of the board of directors to sign all warrants drawn on the county treasurer in favor of parties to whom the district is lawfully indebted. If any member of the board refuses

to sign such warrant, there is no way to compel him to do so, except through regular legal procedure. If, however, the county superintendent be cognizant of the facts and certifies to the county treasurer that the warrant was drawn in payment of a just debt legally incurred, the county treasurer would be justified in paying such warrant bearing the signature of only two members of the board of directors.

8. A school director has no legal right to refuse to sign a properly drawn warrant, issued for any just obligation of the district. The warrant might be cashed upon two signatures if the county treasurer is willing to assume the responsibility. The only way to compel the director to sign it is by legal proceedings.

Warrants—issuance of.

9. Since no warrant is valid if drawn in favor of a person to whom the district is not lawfully indebted, the district has no authority to incur the debt for the payment of which the warrant mentioned was drawn.

10. The only legal restrictions placed upon school directors in the matter of issuing warrants are that they must be issued to persons to whom the district is legally indebted, and the total amount issued must not be in excess of the special tax levied for the current year.

11. A county treasurer can legally pay only such warrants as are issued against the school fund of the current year.

Auditing of bills.

12. The auditing of bills against a school district must be performed by the board of directors at a meeting thereof, and vouchers or warrants issued for the payment of such bills are legal only when issued by a vote of a majority of the board at such meeting.

County treasurer custodian of school funds.

13. The county treasurer is the only legal custodian of the school funds. The district treasurer has no legal right to hold in his possession any of the general, special or bond fund, nor have the directors of a school district any legal right to issue orders on the county treasurer, except in favor of those parties to whom the district is legally indebted. In the payment of school bonds, the district treasurer has control of the funds only during the times of advertising and subsequent payment.

14. Funds of first class districts must remain in the hands of the county treasurer and be drawn upon through warrants made out by the district board, as in districts of the third class. The law makes no provision for the handling of the funds.

79. Delinquent officers—penalties.

No superintendent or district officer shall receive any of the compensation, who has neglected or refused to perform any duty required by law, and any district officer so neglecting or refusing, when specially directed by a majority of the district board, shall be deemed guilty of a misdemeanor, and it shall be deemed a violation of law for any person to draw or sign a warrant for the payment of such delinquent officer, and any person so signing a warrant shall be liable in double the amount of such warrant. [M. A. S., 4023.]

80. Powers of directors.

Any school board shall have power to make such by-laws for their own government and for the government of the public schools under their charge, as they may deem expedient, not inconsistent with the provisions of this act, or the instructions of the superintendent of public instruction. District boards of the first class shall also have power to fill any vacancy which may occur in the board, until the regular election, at which time the vacancy shall be filled for the unexpired term. [M. A. S., 4012.]

NOTE—County superintendents fill vacancy, except in first class districts, section 54.

Time for filing notice.

1. In a first class district, when a vacancy occurs after the advertisement of the regular election, four weeks preceding such election, a person who may desire to be a candidate for the office of school director, by filing a written notice of such intention with the secretary of the school district in which he resides at least eight days prior to the day of the holding of the annual election, will become a legal candidate, providing the other details specified in sections 92-93 of the school law be observed. If the resignation occurs after the eight days specified in section 93 the board would name the director who would hold over until the regular election.

Rights.

2. A school board has a legal right to require such qualifications of teachers as seem to them to be for the best interests of the school, provided such qualifications do not conflict with those required by the state.

3. The statutes give boards of directors of districts of the first class the entire authority to declare and fill vacancies, and with that authority, by necessary implication, goes the authority to declare vacancies, excluding the idea that a county superintendent may have that authority. The county superintendent has no right whatever to hold that a vacancy exists in the board of a district of the first class until such a vacancy has been declared by the board itself, or by the courts.

4. If the school board chose to revoke its rules concerning the place where a school meeting must be held, it would have a right to do so.

81. Powers of school boards.

Every school board, unless otherwise especially provided by law, shall have power, and it shall be their duty:

First—To employ or discharge teachers, mechanics and laborers, and to fix and order paid their wages; to determine the rate of tuition for non-resident pupils, and to fix the compensation to be allowed the secretary for the time necessarily spent in the service of the district, as required by law, or as directed by the board; *Provided*, It shall be unlawful to pay any other member of the board, from the district funds, for his services as a member of such board.

Second—To enforce the rules and general regulations of the state superintendent, to fix the course of study, the exercises and the kind of text books to be used; *Provided*, That but one kind of text book of the same grade or branch of study shall be used

in the same department of a school, and that after the adoption of any book, it shall not be changed in less than four years, unless the price thereof shall be unwarrantably advanced, or the mechanical quality lowered, or the supply stopped.

Third—To provide for school furniture, and for everything needed in the school house, or for the use of the school board.

Fourth—To rent, repair and insure school houses.

Fifth—To build or remove school houses, and to purchase or sell school lots, when directed by a vote of the district so to do.

Sixth—To hold in trust for their district all real or personal property for the benefit of the school thereof.

Seventh—To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school, children under six years of age.

Eighth—To determine the number of teachers that shall be employed, and length of time over and above three (3) months that the school shall be kept; to fix the time for the opening or closing of schools, and for the dismissal of primary pupils before the regular time for closing the schools.

Ninth—To provide books for indigent children, on the written statement of the teachers that the parents of such children are not able to purchase them, and to furnish free text books for the use of all pupils, when authorized to do so by a majority vote of the district, as expressed at any regular or special meeting.

Tenth—To require all pupils to be furnished with the proper and suitable books as a condition of membership in school.

Eleventh—To exclude from school and school libraries all books, tracts, papers and other publications of an immoral or pernicious tendency.

Twelfth—To require teachers to conform to the law.

Thirteenth—To make an annual report, as required by law, to the county superintendent, on or before the first day of August of each year, in the manner and form and on the blanks prescribed and furnished by the superintendent of public instruction.

Fourteenth—To make a report directly to the state superintendent, whenever instructed by him so to do.

Fifteenth—Whenever a pupil resident in one district desires to attend school in another district, such pupil shall be permitted to do so; *Provided*, That the board may refuse to admit pupils from other districts upon the ground of insufficient room. [M. A. S., 4015.]

Hire teachers.

1. A school board has the absolute right to engage the teacher, or teachers, for the school district. The fact that a majority of the taxpayers sign a petition making a protest against the selection made by the board can not in any way affect the legal right or the action of the board in the matter of the appointment of a teacher.

2. If a teacher receives from the secretary of a school board, in pursuance of an order of the board, a letter notifying him of the length

of term and salary, such notification would stand in law as a contract, should the teacher accept.

3. A verbal promise given to a teacher by members of a school board at other than a regularly called meeting is not in any way binding upon the board. The members have a perfect right to engage some other person when a regular meeting of the board is held.

4. There is nothing in the school law of Colorado to prevent a board of directors in a district of the first class from making a contract with a teacher or superintendent for a term exceeding the school year.

5. In case a summer school is to begin in a district, either before or on the day upon which the annual election is held, it would be legal for a board to engage a teacher for such a school.

6. When a teacher enters into a contract with a board of directors to teach a certain number of months it is understood that customary vacations may be held, even though not specified in the contract, and that the teacher will not receive compensation for the time occupied by said vacations, he being expected to teach the full number of months specified in the contract, aside from the time included in the vacations.

7. There is no law requiring a teacher to have a physician's certificate; this matter is governed by the rules made by the board of directors.

8. School boards, in districts of the first class, have entire control of the examination and licensing of applicants to teach in their districts. They also have a legal right to renew certificates without examination. One member of a school board can not legally employ a teacher except when ordered to do so by the board at a regular or special meeting.

9. If a misunderstanding occurs as to the employment of a teacher and two of the board refuse to enter into a contract with the teacher who was chosen by the other member, the teacher could not legally claim her appointment.

10. In districts of the first class the school directors have entire charge of the examination of applicants for positions in the schools of their district.

11. While the law does not state that married women living with their husbands in Colorado shall be allowed to teach, there is no law prohibiting any person eighteen years of age, who can obtain a certificate, from teaching, save when a member of the school board.

12. The board of directors has exclusive jurisdiction in the employing and discharging of teachers.

13. If a teacher has been employed to teach a certain department of a school, the school board would not have the right to close another department and require one teacher to do the work of both departments, unless such an arrangement had been made in the contract entered into between the teacher and the board.

The only way by which a teacher's salary can be legally increased during the term for which she is employed would be at a regular or special meeting of the school board.

14. The law provides that an applicant for a teacher's certificate must not be less than eighteen years of age. It would be illegal to grant a certificate if the applicant did not meet that requirement. It would be illegal for a school board to employ a teacher under such circumstances.

15. An oral contract made between a teacher and a school board is as binding as a written one; *Provided*, That either party can prove the terms of the contract.

16. The laws of Colorado do not make it illegal for members of school boards to vote for relatives of any degree as teachers.

17. It is illegal to employ a school teacher save at a regularly called meeting, of which due notice was given to every member of the board. It is also illegal to transact any business save at such duly called meetings.

18. It is absolutely illegal for the members of a school board to appoint a teacher at any time or in any way save through the action of a majority of the board at a regularly called meeting of which all the members have had due notice.

19. If two districts are united according to law and a teacher holds a contract made previous to the union to teach a coming term of school in one of the districts, the newly formed district is not required to carry out that contract, since the district as originally established has ceased to exist, being now simply a part of another district; therefore, the contract by its board of directors has become null and void.

20. A district board has not, in law or equity, a right to deliberately make its circumstances for the purpose of taking advantage of the emergency clause in that section of the statute which provides for granting and endorsing teachers' certificates.

21. There is no law authorizing second and third class districts to hold examinations for teachers to be employed by such districts.

22. The engagement to teach of a person who has no certificate by school directors is illegal, as no contract could be made between the school board and such a person. The fact that she draws no pay would not entitle her legally to teach the school. A school so taught could not be considered a public school, nor could the months of school so taught be counted in, or reported as, months of public school work. School directors could only as private citizens employ a teacher to teach a private school. There is no possible way in which the public school work and the private school work can be combined, or the private school work legalized as public school work, or a private school teacher in any way be considered a public school teacher.

23. Every member of a school board has an equal voice in employing teachers; that is, the vote of the treasurer counts for just as much as that of either the president or secretary, on all matters pertaining to the affairs of the school district. The decision of a majority, however, rules in this as in all other matters, but if the treasurer and secretary vote to engage a certain teacher, the teacher could be engaged even though the president might not acquiesce, and, necessarily, if the president and secretary voted in opposition to the vote of the treasurer, their decision would stand.

24. One member of a school board can not legally employ a teacher, even though a meeting has been called for the purpose and notice of it sent to other members of the board. If the failure to attend the meeting arises from a deliberate intention to fail to do the duty required of members of a school board, the member who has previously called the meeting can, by legal process, compel the attendance of the members.

25. Since the law gives the board the right to employ and discharge teachers and to fix and order paid their wages, the electors of the district could have no voice in the matter, and while the patrons of the school would have a right to circulate a petition requesting the board to engage a certain teacher, the board would have the right to ignore the petition if they desired to do so.

26. A contract between a teacher and his substitute is not binding upon the board of directors.

27. The appellate courts of this state have never decided the question of the legality of a school board to contract with teachers before the annual election establishes a new board of school directors.

28. Until a first class district is fully organized, so far as its board, etc., is concerned, in conformity with the provisions of the law relating to first class districts, the board of the district would have no right to grant certificates to the teachers employed. Until the board was fully organized as a first class board the teachers employed in the district should be required to take the regular county examination.

29. All first class districts have a right to make their rules and regulations governing examinations for certificates and for any special line of work.

School furniture.

30. No member of a district board has any right whatever to purchase coal or other school supplies, without being ordered to do so by a majority vote of the members.

31. A school board of a district of the third class has a legal right to purchase desks for a school building without a vote of the electors of the district.

32. School directors of a district of the third class may purchase an organ for the use of the school and pay for it out of the special fund. The general fund can not be used for that purpose, unless there is a balance remaining after paying all expenses necessary to support a public school for ten months in any one year.

33. Two members of a board in a district of the third class can legally contract for furniture for their school house, but such contract should be made or ratified by a vote at a regular or special meeting of the board. The third member of such board can not legally refuse to sign warrants issued in payment of such furniture simply upon the ground that he considers such furniture unnecessary. If illegality or fraud exist then he can refuse, but the fact that he considers the furniture unnecessary is only a matter of opinion, and he should be governed by the opinion of the majority.

Discharge teachers.

34. Two members of a school board have the right to dismiss a teacher; *Provided*, Their action is taken at a regular or special meeting at which all the members of the board have notice, but a teacher having a contract with the board can not be dismissed without good cause for such action being shown.

35. It is not legal for a school board to retain a teacher whose certificate has expired if the term of school for which such teacher is employed extends more than one month after such expiration. The law definitely states that a new certificate shall be secured. The endorsement of the certificate should read "Good" until the next regular county examination.

36. In order to make good charges of immorality or incompetency, specific acts must be declared and supported by affidavits or witnesses. If satisfied that the charges can be sustained by proof, the proper course for the board is to bring the matter to the attention of the county superintendent, with the request that he use the power granted him by law.

37. If a teacher employed in the schools is incompetent to give instruction in any of the subjects provided in the course of study for that district, the board of directors would have cause for discharging such teacher.

38. A school board may dismiss a teacher for incompetency or immorality. A county superintendent may revoke a certificate of any kind at any time for immorality, incompetency or any just cause.

39. The laws of this state make it impossible for a school board to discharge a teacher without some cause that would be considered in the courts a sufficient reason for breaking the contract between the teacher and the school board. Incompetency, immorality, drunkenness, etc., are the reasons that have been held sufficient.

Fix salary.

40. A teacher having received a stipulated salary, can receive that salary only by warrants drawn by the district secretary, and takes them for what they are worth. It would not be proper for the board to simply supplement, by an additional warrant, the shrinkage of irregular war-

rants on account of the discount in the market. The deficit may be made good by the board, at a regular meeting, voting to advance the salary so as to cover the shrinkage in value of the depreciated warrants.

41. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss.

42. A teacher's only recourse against a school board that refuses to issue a warrant for salary is through the courts.

43. When a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher for the same, as if she had taught school, although the school board would have the right to give the teacher such a day and pay her for it upon the request of the county superintendent. The right in the matter rests with the district board.

44. A certificate to teach can not be revoked by a county superintendent without having good and sufficient reasons for so doing. Alleged exorbitant wages named in a contract between him and the directors of a district would not be lawful reason for revoking a certificate unless fraud of some kind could be shown.

45. The directors of a district have no legal right to make a contract with a teacher to pay wages in excess of the revenues for the year.

46. A teacher can draw her wages during the time that a school is closed on account of an epidemic.

Compensation allowed secretary.

47. While the law states that district boards shall fix the amount of the secretary's salary, if the secretary rendered his services without such salary being fixed, or without demanding it at the time, he could not later claim it.

48. The secretary is the only officer of a district school board whom the law allows to draw pay for his services, and his pay is fixed by the board.

49. A school board has the right to fix the compensation to be allowed the secretary for the time necessarily spent in the service of the district, as required by law or as directed by the board, and in section 73 of the school law it is stated that no orders shall be drawn upon the county treasurer (by the district board) except in favor of parties to whom the district has become lawfully indebted. It is the province of the board to decide the proper compensation for the secretary's duties, providing, always, that the board's provision for such compensation is just and reasonable and in compliance with the law.

50. If a secretary of a school board should falsify his records, he would violate his bond.

Powers of president.

51. As the president of the board is a member of the board, with all of the privileges to which such members are entitled, he can, although the presiding officer of the board, make or second a motion, state it from the chair, and vote on the same.

52. The length of residence required in Colorado to constitute eligibility to the office of school director is twelve months.

53. A school board does not have to carry out all motions made and carried at the annual meeting of electors unless such motions cover matters upon which the electors are entitled to pass.

54. If the electors of a district are dissatisfied with the action of the board, they have the privilege of enjoining the board from fulfilling said action.

55. Directors can not exercise the powers given electors of districts of the third class, after filing annual census of 350 children previous to

the annual election. The board will reorganize after the annual election and after the census list is examined, compared as required of the county superintendent in section 186 of the school law, and is found to be correct in giving the district the necessary number for a second class district.

56. A member of the school board may be compelled by legal process to perform the duties of his office as specified in the law. Any elector of the district, member of the school board or the county superintendent can institute the proceedings.

A member of a school board may be removed for malfeasance in office, by action taken in the courts.

57. It is illegal for two members of the board of directors to transact business connected with the district without consulting the third member.

58. If the school board chose to revoke its rules concerning the place where a school meeting must be held, it would have a right to do so.

59. It is illegal for two members of the board to transact business that has not been decided upon at a regular or special meeting of the board. If the specifications in regard to the digging of the well were definitely stated at a regular or special meeting, it would be necessary to call another meeting of the board to change those specifications.

60. Directors of third class districts have no authority to sell property of the district unless instructed to do so by the electors. A sale without such direction is illegal.

61. If the actions of the board do not meet the approval of the electors, the latter may either have redress through the courts, or, in certain cases, may appeal to the county superintendent and from him to the state board of education.

Tuition.

62. There is no legal provision for the payment of tuition out of a fund belonging to a school district. If a tuition is charged pupils who attend school in a district other than that in which they reside, that tuition must be paid by the parents, and not by the district from which the pupils come.

63. The payment of tuition for the school privileges afforded to children attending outside of their own district is a matter which the boards of the respective districts must arrange between themselves.

64. The law makes no provision whereby the board of directors of a district can appropriate school money to pay tuition for the pupils of said district who attend school in another district.

65. A person, having attained the age of twenty-one years, is not thereby debarred from school privileges, but the board may require tuition of him. This ruling applies to those who may have been under the age of twenty-one at the time the last school census was taken.

66. The school board of any district has the right to fix the rate of and demand tuition from pupils attending from another district.

67. If the home of a family is certified to be in a district, and if the children have been listed upon the school census of that district, the children would have the right to attend the school without tuition, even if the family spends a large part of the year elsewhere. In the case of pupils attending before the family moves into the district for the winter, the same rule would apply.

If the district is the declared home of the family, and if the children have been previously listed upon the census list, they would have the right to attend the school without tuition, even if the remainder of the family were at present residing elsewhere.

68. Those pupils who are entitled to attend school in a district without paying tuition are those whose parents or guardians may legally claim the school district as their residence.

69. The laws do not provide for the payment of tuition in high school for pupils above the eighth grade from the public funds of the school district.

70. "A district can legally pay over to a high school for tuition that part of its apportionment of the general fund accredited to said district on account of such of its pupils as may be attending said high school."

71. The school board of a district has the right to exclude children from other districts on account of lack of room, and to require tuition from pupils who live outside the district. The board has the sole right to decide whether or not the children from other localities shall attend school in the district.

Fix course of study—special branches—admittance.

72. It is the duty of the teacher to teach high school studies when such studies are prescribed by the board of directors as a part of the course of study.

73. It is the duty of the teacher to teach whatever branches may be specified by the school board, since that body is given the right to establish a course of study for the school of its district. If the teacher has failed to teach the branches requested by the board, it would probably not be sufficient reason for the board refusing to sign the warrant for her services as teacher for the time she has been employed in the school, yet it is possible that it might be held as sufficient grounds for the dismissal of said teacher.

74. The school board of a district has the right to forbid the reading of the Bible in the schools of the district, under the provisions of section 81, school law, 1887, which provides that the school board shall have power to fix the course of study, the exercises and the text books to be used in the schools of the district.

75. It is not a part of the duty of the board of directors to decide as to the grade in which a pupil belongs.

76. Article IX, section 7, of the constitution of Colorado, prohibits the use of public school money for the teaching of sectarian tenets or doctrines. It is therefore unlawful for a board of directors to require a teacher to devote any part of any school day to religious instruction.

77. A school board would have the right to require work above the eighth grade to be done, providing there was nothing in the contract made with the teacher which would give her the right to object to doing such work.

78. Since the school board has full authority to make rules and regulations concerning the management of the schools in a district, the board would have the right to fix the times when beginners might be permitted to enter the schools.

79. The law gives the entire authority in regard to fixing the course of study to the board of directors; and the members of the board can not be compelled to furnish instruction in the ninth grade if, in their judgment, it does not seem best to do so.

80. A school board has the right to make the regulations concerning the admittance of pupils to a certain grade of the school when the fall term commences, said pupils having failed to pass the examination given in the spring, and also to authorize the principal to make such rules and regulations and to enforce them as if made by the board as a body.

81. School boards have authority to employ special teachers for special branches, but such teachers must have valid certificates in order to entitle them to be paid from the school funds, even though such teaching is done outside of regular school hours.

82. If a teacher has been employed to teach a certain department of a school, the school board would not have the right to close another department and require one teacher to do the work of both departments,

unless such an arrangement had been made in the contract entered into between the teacher and the board.

83. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

84. A teacher can not be required to teach instrumental music in a school, as the branch is not one included in the requirements of a common school course.

85. A school board in a third class district can not be compelled by parents to put in ninth grade studies in the public schools of the district for pupils past the eighth grade. The school law gives the school directors of third class districts the sole right to fix the course of study.

86. The board of directors of a district fixes the course of study for that district.

87. The directors of third class districts have power to prescribe the course of study, and, therefore, may add such subjects as are deemed desirable without the organization of a high school.

88. As between school directors and the county superintendent, the latter has advisory powers only in arranging course of study, selection of books and grading of schools.

89. According to the school law of this state, the board of directors of a school district has the right to prescribe the course of study for the school. If the board prescribes that certain high school or ninth or tenth grade studies shall be taught, it may be done, but it is not expected that such work shall be a part of the course in the district school if it interferes with the work of the lower grades.

90. The school law of Colorado (section 81) authorizes the board of directors to fix the course of study, the exercises and the kind of text books to be used.

91. A teacher's salary can be legally increased during the term for which he is employed only at a regular or special meeting of the school board.

Text books.

92. In case of a new district formed from one in which text books are furnished free, the question of supplying free text books in such new district must be submitted to a vote of the people.

93. If a school board purchase books to be used by the pupils of the district, such books are for the use of pupils attending school within such district, and for no other. If residents of the district see fit to send their children into adjoining districts, they can not compel the district in which they reside to furnish the text books for their children.

94. The board of directors must furnish books for all pupils when instructed to do so by a majority vote of the electors of their district, as expressed at any regular meeting or special meeting called for that purpose.

95. The laws of Colorado give the entire authority for adopting text books to the school directors of the various districts of the state.

96. In regard to a district board furnishing free text books, the provisions of the law mean that a majority of the votes cast upon the question of providing free text books for the district shall govern, and not a majority of all the electors residing in the district.

97. The fact that a district has voted to furnish free text books to its school children, and has done so for a number of years, does not permanently bind the district so to furnish the text books. If brought up in the manner prescribed by law, the district may again vote upon the matter.

98. If a school board purchases books to be used by the pupils of the district, such books are for the use of pupils attending school within such district, and for no other. If residents of the district see fit to send their children into adjoining districts, they can not compel the district in which they reside to furnish the text books for their children.

99. When a pupil leaves a school where free text books are furnished, he has no right to take home with him and keep text books belonging to the district.

100. Colorado does not have a uniformity of text books. The school law provides that the board of directors in the different districts may determine the kind of text books to be used.

101. County officials have no authority to purchase text books for the schools of the county, using school money for that purpose, nor have such officials the right to adopt text books for use in such schools and require the various districts to pay for the same. The school board determine the kind of text books to be used, and can only furnish free text books for the use of all pupils when authorized to do so by the majority vote of the district.

School houses—rent—repair—build—remove.

102. It takes a majority vote of the electors of the school district to decide upon a location for the school house.

103. The district board has the right in emergencies to permit the location of the school to be changed temporarily, although it is expected that in this as in all other matters the welfare of the whole district will be considered.

104. The site for a school building in districts of the third class can be selected or changed only by vote of the electors taken at the annual meeting, or a special meeting legally called.

105. A board of school directors can not legally change the site for a school building which has been selected by a legal vote of the electors of such district.

106. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

107. Directors of first and second class districts have a right to sell a school building when directed so to do by the electors at a special meeting called for that purpose. Such sale should be made in the manner prescribed by the directors, which should be at public sale after proper advertisement.

108. The power to fix the site for school houses necessarily includes the power to fix the location of the school, and after a majority of the voters of the district (third class) have decided to have the site of the school house in a certain portion of the district, it would hardly be held as within the power of the board to defeat the will of the electors by establishing a school in some other place.

109. Under certain conditions other buildings than the school house may be used for school purposes if the board so desires.

110. The school board of a third class district has no right to move school buildings unless directed to do so by vote of the electors of the district.

111. School must be held in a building situated within the boundaries of the district.

112. The departments of a school can not be legally considered as separate schools.

113. The district school board has the full right to decide where school shall be held.

114. While a school board would, if they felt so disposed, have a right to establish a summer school, they would not have the right to limit the attendance to those pupils recommended by the teachers, and some others, and require those who desire to attend the school without the recommendation to pay their own tuition. It would, however, be legal to establish such a school for certain grades, limiting the attendance to the specified grades.

School houses.

115. The directors of third class districts have no authority either to build a new school house or an addition to an old one unless directed to do so by a vote of the electors.

116. If a majority of the legal voters of a third class district at a special meeting legally called decide that a school house shall be moved, it becomes obligatory on the part of the board to move the building. If they do not, the voters can compel them by mandamus to move it. The school house does not have to stand thirty days after the majority of voters have decided to move it.

117. A board of directors of a third class district can not sell, remove or tear down a school house unless so directed by a vote of the electors.

118. The directors of a school district can not legally purchase a school site without a favorable vote of the electors.

119. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

120. The qualified electors when assembled at a special meeting, duly called, have the power to fix the site for the school house, taking into consideration the wants and necessities of the people of each portion of the district. There is no authority in law giving the privilege to build upon school land without first receiving a grant from the state land board. Upon application to the register of such board, accompanied with plat and field notes of the survey, one acre will be granted your district for school purposes.

121. When a building is to be used for school purposes the board have no authority to build such addition or school room except when directed to do so by a vote of the district.

122. A district board, having already constructed and furnished a school building, may subsequently erect a coal house or other simple out-building, for the convenience of the school, without a special vote of the electors, the outbuilding to be considered an appurtenance or appendage of the school building.

123. If the electors of a school district have voted the specifications in regard to building a school house, the site being definitely selected, the board of directors could not legally change these specifications, and it would be necessary to call another meeting of the electors if thought desirable to make a change.

124. In building a school house the board of directors must keep within the appropriation of the electors. If it is desired to spend more money than the original appropriation, a meeting of the electors must be held to determine whether they will authorize the additional expenditure.

125. The law does not specify the manner in which a school board shall proceed in the matter of building a school house or whether such board shall advertise for bids or not. The board is permitted to exercise discretion in the matter, having in view at all times the best interests of the district.

126. A board of school directors can not legally change the site for a school building, which has been selected by a legal vote of the electors of such district.

127. Directors of first and second class districts have a right to sell a school building when directed so to do by the electors at a special meeting called for that purpose. Such sale should be made in the manner prescribed by the electors, which should be at public sale, after proper advertisement.

128. The directors of a third class district can not legally purchase a school site without a favorable vote of the electors.

129. The board of directors, in leasing an unused school house, have the power to insert in the lease the purpose for which said building shall not be used.

Custodians of school property.

130. The school directors constitute the custodians of the school property of the district, and may at their option permit the use of the school house for other than school purposes. Any money thus obtained should be considered a part of the district school fund, and should be accounted for accordingly.

131. The management of the property of the school district is given to the school board, it being expected, however, that the board shall take care of the property in a manner satisfactory to the electors of the district and that the use of the school house is not permitted for improper purposes. If the property of the district has been abused, any elector of the district could take legal steps to put a stop to any further abuse in the same line.

132. A district board has the control of the school house and can not be compelled to open the house for other than school purposes, even though the citizens of the district so request.

133. As the school board of any district has the control of the school house, if the board sees fit to permit the use of the school house for a subscription school it has the right to do so. It may also permit the use of the text books owned by the district. It has no right to permit the use of the district's fire wood or to in any way make an expenditure of the district's money for the subscription school.

134. The members of the school board are the legal custodians of school property and a taxpayer of the district can not dictate for what purpose the school building can be used.

135. If a majority of the board of school directors decide that the school house of the district may be used for church purposes, the building may be so used. The law gives the charge of the school house and other school property of the district entirely to the school board.

136. A school board of a district has the right to decide as to whether a school house shall be rented for any purpose, it being necessary, however, that the purpose be one against which no reasonable objection might be made by the electors of the district.

137. If the directors authorize the use of the school house for election purposes, the teacher is entitled to pay for time thereby lost.

138. The management of the property of the school district is given to the school board, it being expected, however, that the board shall take care of the property in a manner satisfactory to the electors of the district and that the use of the school house is not permitted for improper purposes. If the property of the district has been abused, any elector of the district could take legal steps to put a stop to any further abuse in the same line.

139. The entire management of the school house is in the hands of the board of directors.

Suspend or expel pupils.

140. In the absence of any rules and regulations prescribed for the government of the schools by the board of directors, it is within the power of the teacher to make such reasonable rules and regulations, and

to enforce them, in the same manner, subject always to the supervision of the board of directors.

141. It is the right and duty of a school board to exclude from a public school a boy of school age who is an imbecile.

142. It is the duty of the board of directors to see that school children are vaccinated when required to do so by the local board of health.

143. "It has been ruled by Attorney General Engley that a teacher has no power to suspend pupils and that the board can not delegate to the teacher its statutory power in that matter. However, I consider that it would be proper to assume that the teacher has the power to temporarily suspend, that is, long enough for the matter to be called to the attention of the district board. It would also seem proper to say that the board may act entirely upon the recommendation of the superintendent in regard to suspension and expulsion, but the act of suspension must be the act of the board."

144. Every school board has power to suspend or expel pupils from school who refuse to obey the rules thereof.

145. Under the constitution and laws of this state the board of directors of any district have power to establish reasonable rules and regulations for the government of the schools under their charge, for controlling the conduct of teachers and pupils, not only while in the school room, but while going to and from the school, and such reasonable rules and regulations may be enforced by suspension, expulsion or corporal punishment, as the board of directors may determine.

146. Power is given to a school board to expel any pupil for bad conduct and to refuse to permit him to re-enter the school, if in their judgment it is necessary for the welfare of the school.

147. A pupil can be expelled by the board of directors for any offense that in their judgment deserves such severe penalty.

148. The power to expel or suspend a pupil from the privileges of the schools of Colorado is conferred by law solely and exclusively on the school board, and no teacher has the right to perform that act.

149. The board of directors has exclusive jurisdiction in determining the method of discipline to be employed in the schools under its control.

150. The school board have a right to exclude a child under six years of age from school. A district board may erect a simple outbuilding for the convenience of the school, the outbuilding to be considered an appurtenance or appendage of the school building.

151. A teacher has no power to suspend pupils permanently, but can suspend them temporarily until the matter can be called to the attention of the board.

Number of teachers—time.

152. The law gives school directors the sole power to arrange the length of the term, number of teachers to be employed, grade of work to be done, etc., in the public schools of the district.

153. A school board has the right legally to appropriate money to carry on a second or third school to be located in various parts of the school district when the location of the school population seems to demand such an arrangement to justly provide educational privileges for the greatest possible number of children residing in the district.

154. If a teacher is engaged by the year at an annual salary, vacations are not deducted. If he is employed by the month, and paid a fixed sum per month, vacations are deducted, if there is no contract to the contrary. A teacher could just as lawfully claim pay for the long summer vacation as for the customary holiday vacation.

155. A teacher can not be legally dismissed before the expiration of the time for which she is engaged "without good cause shown," and

is so dismissed she can collect full salary; *Provided*, She holds herself in readiness to fulfill her part of the contract.

156. The board of directors has no right to deduct from a teacher's salary for legal holidays occurring during the school term.

157. A teacher may collect salary to the amount of actual damage suffered by the failure of the board of directors to fulfill its part of the contract.

158. If a school board closes a school during the term on account of the prevalence of a contagious disease, the teacher does not lose his pay, unless he consents to lose it; *Provided*, He holds himself in readiness to teach, subject to the order of the board.

159. A teacher may collect salary for the number of months specified in the contract entered into with the board of directors of the school district where he teaches; *Provided*, The directors have not contracted with the teacher to pay wages in excess of the revenues for the year.

160. If a teacher is ready to begin school at the time specified in his engagement, and owing to neglect of duty on the part of the school board, can not do so, he is not compelled to make up the time thus lost, but is entitled to his salary from the time specified in such engagement.

161. There is no law authorizing a teacher to draw his salary for the two weeks spent in attending the normal institute.

162. If the board of directors closes the term of school before the expiration of the time contracted for, the teacher being ready to fulfill his part of the contract, the board is liable for the teacher's salary for the full term agreed upon.

163. If, with the consent of the directors, a teacher holds school on a legal holiday to make up for a day lost, the teacher is entitled to pay for the full month.

164. The directors have full authority to decide how many schools shall be conducted in their respective districts and where such schools shall be held.

165. The teacher has a right to her hour's intermission at noon, providing she teaches the requisite six hours through the day. She is required to teach school from 9 a. m. until 4 p. m., unless the board gives her permission to finish at an earlier hour.

166. When a teacher begins work without having entered into a definite verbal or written contract with the school board which employs her, she has a right to leave the school at any time, and the school board has the right to discharge her at the end of the first month's work, and also to employ another teacher.

167. In case two members of the board at a legally held meeting of the board voting a certain sum as the teacher's salary, written notice of such action being sent to the teacher, the notice is binding upon the board and equal to a contract.

168. If a school board makes a legal contract either verbal or in writing with a teacher, providing for his re-election and specifying the salary he is to receive, the board could not at a later meeting change its action.

169. A contract to teach made by two directors with the proposed teacher is valid, and the person so engaged to teach can collect the amount named in the contract as compensation for his services if he performs such services in accordance with the terms of the contract.

170. A school board can not compel a teacher to make up time lost during the time a school was closed because of the prevalence of a contagious disease; *Provided*, Said teacher holds himself in readiness to teach, subject to the order of the board.

171. The law gives the right to the school board to say how many months of school shall be held in excess of the months required by law, and also the right to fix the salaries of the teachers employed. The elec-

tors have no right, legally, to call a meeting to vote upon either of these questions, and if such a meeting was held, the school board could not be compelled to attend, or to act in accordance with the action taken through the meeting.

172. To be entitled to his salary for the day, the teacher should remain in the school room after the hour of opening, both forenoon and afternoon, a sufficient time to determine that no pupils will be in attendance.

173. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to compensation for the full time, although the school should lapse by reason of the residents leaving the district; provided the teacher has fulfilled her part of the contract and expresses her willingness to complete the requirements of her agreement. The school board should have taken into consideration the possibility of such an event at the time the contract was made.

174. Since there was no written or verbal contract in regard to the length of your school term, you can not compel the board to continue the school for any stated time. The school board has the full power to decide what the term of school shall be.

175. A school board can hold a teacher to a contract for the time therein agreed.

176. A teacher is under no obligation to make up time lost when school is closed for the purpose of repairing buildings. If a teacher absents himself a day or more from his work, he himself being responsible for the loss of time, he must make good the loss of time or forfeit his pay.

177. A school board has the full power to employ or discharge teachers and to decide what term of school shall be held in a district.

178. A teacher is not entitled to receive pay for the time lost while attending a teachers' examination.

179. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to compensation for the full time.

Furnish books for indigent children.

180. There is no law authorizing the school board to pay from the fund the board of children who live a distance from the school. It is the duty of the school board, however, if the parent, by reason of poverty, can not properly clothe the child, to furnish necessary clothing and pay for the same out of the school fund by warrant drawn as in other cases, but even this fact must be shown to the satisfaction of the board.

Use of district funds.

181. The school funds can not be legally used for defraying the expenses of a singing school.

182. A school board can not legally loan the money of the district.

183. A school board can not legally contract for the work of instructing high school pupils to be done by a private party or corporation and pay for it out of public school funds.

184. A director of a school board has no right whatever to draw money from the funds of a school district to pay for his child's board while attending school in another district. Any member so misappropriating the funds of the district can be compelled by process of law to refund the money.

185. When funds are used in violation of the law, any elector of the district or any county superintendent has the right at any time after said funds have been so used, to bring suit to recover the same, the members of the school board that signed the illegal warrants being liable for the amount involved.

186. It is the duty of the county superintendent to prevent any illegal expenditure of funds, and any citizen of the district may at any time after any illegal expenditure bring suit to recover the funds illegally expended.

187. The school board has no right to use the school funds in the employment of attorneys or other expenses to antagonize the action of a board of health.

188. If an attorney is employed to defend an action brought against the district, then the district must pay his fees; but if brought against the individual directors, they must pay their own attorneys' fees.

189. A district school board has the right to use the funds of a district to pay for legal services properly engaged for the protection of the interests of the district.

190. The directors have no right to use, or permit the use of, fuel paid for from school funds for other than school purposes.

191. The law makes no provision whereby the board of directors of a district can appropriate school money to pay special teachers for the pupils of said district who are unable to attend the regular school.

192. In regard to payment for transportation of pupils to and from school, there is no direct provision of the law authorizing such action.

Special levy.

193. In any district of the third class a levy on taxable property must be made by the qualified voters when assembled at any regular or special meeting, and such levy can not be made by board of directors.

194. There is no limit to the special levy in first and second class districts.

195. When the electors have voted a definite special levy for building a school house, the board can not spend in building said school house more than the proceeds of said special levy, unless so directed by the electors.

196. The right to levy a 1-10 of a mill tax for library purposes in school districts rests entirely with the school board. A vote of the electors of the district is not necessary for this purpose.

Auditing of bills.

197. The auditing of bills against a school district must be performed by the board of directors at a meeting thereof, and vouchers or warrants issued for the payment of such bills are legal only when issued by a vote of a majority of the board at such meeting.

198. The constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness can not be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building..

Debts.

199. A debt can only be contracted by a majority of the members of the board at a regular meeting, or at a special meeting called for that purpose. As the auditing of bills for an indebtedness is an entirely separate act from the contracting of the same, it necessarily follows that they must be performed at different times. The bills should be audited at a meeting of the board of directors, and the vouchers or warrants for such indebtedness be ordered issued by a majority of said board.

Bonds.

200. Having considered the relation in which the act of 1899 stands to the school act, it appears evident that the general assembly intended

to create a new and distinct school district, which should exercise all the powers of "school districts" and be classed as a school district, and in the exercise of those powers given to school districts in the state. It is, therefore, concluded that it has the right to issue bonds in accordance with the provisions of section 11 of the school act.

201. A school district created from organized territory, which is already bonded for building purposes, can issue new bonds to an amount not to exceed the difference between its share of the present bonded indebtedness and three and one-half per cent. of the assessed value of its property, both real and personal.

202. Bonds can not be voted for sinking an artesian well; but if the district has sufficient money in its special fund, it may use that money for such a purpose on a vote of the electors.

203. A school district has no right to create a debt except through bonding the district in accordance with the provisions of section 11 of the school law, and the further provision that warrants may be issued before the funds to pay them are actually in the treasury; *Provided only*, That the total sum of such warrants does not exceed the revenue of the district for the year in which they were issued.

Pupil's residence.

204. An emancipated minor has a right to declare his residence, and is entitled to all the school privileges of the district of which he is, *bona fide*, a resident.

205. The fact that a person pays taxes in two counties does not give him the right to send children to school in both districts in which the taxes are paid. A man's residence can only be in one place, and the place where the home is permanently located determines the district where the children have a right to attend school.

206. Residence under the school law means a person's real home, not temporary abiding place.

When people move into a town at the beginning of school, expecting to return to their permanent home at the close of school, they can not claim residence, and the school board has a right to charge tuition to children sent to school by such families.

207. If the parents or guardian of a child remove from a school district, claiming a residence elsewhere, the child is not properly a resident of the district from which the parent or guardian has moved.

208. A child who is living with a bona fide resident of a district and dependent upon such resident for a living is entitled to attend school in such district free, though the parents of such child are living in another district.

209. If parents own no home in a particular district, but rent while the children go to school there, and return to a ranch which they own in another district as soon as school is out, the district in which the ranch is located should enroll the children upon the census list.

210. If renters renting by the year and having no other home send children to school, the district in which they are residing in a rented house should enroll the children.

If renters rent by the month, leaving when school is out, and having a fixed home elsewhere, the children should be enrolled in the district where the fixed home is located.

If renting by the month and having no home elsewhere, although leaving when school is out, the children should be enrolled in the district where they rent.

If the mother votes in a certain district, living there with the children, that would be her residence and the children should be enrolled in such district.

211. The fact that one is a taxpayer in a certain county does not give him the right to send his children to any school in the county, he simply having the right to send his children to the school located in the district in which he permanently resides.

212. A resident's objection to the attendance at school of a child from another district is of no effect, provided the board of directors is willing to permit such attendance.

213. The law makes no provision whereby a school board can pay the board of a pupil in another district.

214. There is no law authorizing the school board to pay the board of children who live a great distance from the school house, in order that they may attend school, out of the school fund.

215. In regard to whether a person living in a district where there are two schools has a right to send his children to either, the matter should be controlled by the local board of directors the same as is done in cities where the boards control the sending of children to the different city buildings.

216. If a person moves his family into a school district for the purpose of availing himself of the advantages afforded by that district, and subsequently, during the school year, removes from the district, he is not a resident of such district, within the meaning of the term as used in the school law of Colorado. The following is taken from a decision of the supreme court of Wisconsin (N. W. Rep., Vol. 41, page 1,014): "Effort has been made to guard against the precipitancy of non-residents to points where superior advantages exist, and schools of high order are maintained, by holding that such children only are entitled to free tuition as are actually residing in the district for other reasons, as a main purpose, than to participate in the advantages which the school affords."

General funds.

217. It is legal to draw on the general fund to pay the janitor who is employed in a school.

218. The general fund may be used for building, furnishing or erecting additions to school houses, or for improving the school house, sites or lots, only after the expense of maintaining the school for a period of ten months in one year shall actually have been paid.

219. "The general fund may be used only for teachers' wages, and necessary current expenses, until the school has been conducted for a period of ten months in one year."

220. All moneys remaining to the credit of any district on June 30 should remain to the credit of such district and can not be turned into the general school fund of the county for reapportionment.

221. Insurance premiums and attorney's fees are not expenses "incidental to the support of a public school," and therefore must not be paid from the general fund.

Special fund.

222. If any surplus funds remain in the special fund over what is necessary to meet the regular current expenses of the district, such surplus may be used to pay past indebtedness.

223. The law does not give the school board the right, without the consent of the electors, to furnish board from the special fund for pupils who live too far away to attend.

Contracts made by board.

224. A contract made by a majority of the school board is a legal contract; *Provided*, Such contract is made at a regular meeting of which all directors had legal notice. The law makes it mandatory that the president sign all orders on the county treasurer for the payment of money;

Provided, That no orders shall be drawn upon the county treasurer except in favor of parties to whom the district has become lawfully indebted.

225. A contract may be legal if not drawn according to the form in the school law; *Provided*, That both parties to the contract are aware of the terms contained in the contract, and provided that such contract is made at a regular meeting or at a special meeting legally called, and of which all the directors had legal notice.

226. Two members of a school board in districts of the second and third classes can make a legal contract without the consent of the third member; *Provided*, Such contract is made at a regular meeting, or at a special meeting legally called, and of which all the directors had legal notice.

227. A teacher is not required to do janitor work in this state unless the contract into which he has entered with the district board distinctly states that such shall be the case.

228. A school board can legally let a contract to a man whose wife is a member of the school board, as the fact that the wife is a member and is, therefore, excluded from being a party to a contract with the district would in no way affect the husband, who is not a member of the school board.

229. A contract made and agreed to by the majority of a school board is a legal contract if properly entered into in all respects. It is not in the power of one member of a board to block the action of the board by his refusal to do his duty.

230. A contract made with the president and treasurer of a school board would be legal, even if there is a vacancy in the office of secretary. A warrant signed by the above named members under the circumstances mentioned should be a legal and sufficient warrant for recognition by the county treasurer.

231. When a contract is reduced to writing, it is supposed to express the intention of the parties, and when such intention is clear it can not be changed by oral evidence.

Teacher's report.

232. No part of the last month's salary of a teacher should be paid until the reports required by law are made and filed according to specifications.

Board of health.

233. The authority of the board of health is paramount to that of a school board, and if the board of health passes a regulation requiring vaccination of pupils as a prerequisite to admission to the school it is the duty of the school board to carry into effect such regulation.

234. A by-law providing that any pupil infected with smallpox, scarlet fever, diphtheria or any other contagious disease, should be excluded from the school, would certainly come within the powers of the board under the statutes; there can be no reason why a by-law providing that a well recognized preventive must be resorted to under pain of exclusion from school, would not be equally within the powers of the school board.

DISTRICTS.

DISTRICTS, OFFICERS AND ELECTIONS.

82. School districts to be bodies corporate.

Each regularly organized school district heretofore formed, or that may be formed, as provided in this chapter, is hereby declared to be a body corporate, by the name and style of "School District No. , in the county of , and State of Colorado," and in that name may hold property and be a party to suits and contracts, the same as municipal corporation in this state. [M. A. S., 4004.]

Attorneys' fees--how paid.

1. If an attorney is employed to defend an action brought against the district, then the district must pay his fees; but if brought against the individual directors, they must pay their own attorneys' fees.

83. Legal school district—when second class districts become first class.

Every school district in the state which now exercises the prerogatives of a school district, and the legality of whose organization has not been legally denied, and which has a board of directors, duly qualified according to law, and has exercised the rights and enjoyed the privileges of a legally and regularly established district for one year, shall be, and is hereby declared to be, a legal school district, and all district officers shall hold office until their successors are qualified. When school districts of the second (2d) class shall attain a school population of one thousand (1,000) or more, as shown by the annual census, at the next regular election thereafter, as provided in section 44 of this act, there shall be elected one (1) director for three (3) years, and one (1) director for four (4) years, and one (1) director for five (5) years, and annually thereafter one (1) director for five (5) years, as provided for in districts of the first (1st) class; and the persons so elected, together with the directors whose official terms have not expired, shall constitute the new board, which board shall enter upon the duties prescribed by law for boards of directors of districts of the first (1st) class. [M. A. S., 4006.]

NOTE—Section 44 above referred to is section 92 herein.

First class—organized when.

1. Since the law says positively that when school districts of the second class shall attain a school population of 1,000 or more there shall be elected one director for three years, one director for four years, and

one director for five years, etc., it is really obligatory that a district shall organize as a first class district after attaining the specified population.

84. **Legal districts—what constitutes.**

All school districts now formed, or which may hereafter be formed, which shall continue to exercise, undisputed, the prerogatives, and enjoy the privileges of a legally formed district, for the period of one year next succeeding the election of its officers, shall be deemed to be a legally formed district, and its legality shall not thereafter be questioned. [M. A. S., 4007.]

ORGANIZATION OF DISTRICTS, ETC.

85. **Organization of new districts—petition—unorganized territory.**

For the purpose of organizing a new district out of a portion of one or more old districts, the parents of at least ten children of school age residing within the limits of the proposed new district, shall petition the county superintendent, in writing, which petition shall describe the boundaries of the proposed district, and the names of all children of school age residing in such proposed district at the date of said petition; and said list of names shall be held to be the census list of said district until the next regular census shall be taken, and if any names are found on said list, and also on other census lists for the current year, if the county superintendent is satisfied [that] the children so named are *bona fide* residents of the proposed district, he shall strike such names from the lists of the old districts, when the organization of the new district is complete. If, in the judgment of the county superintendent, the school interest of the districts affected by the proposed change will be best promoted by said change, he shall direct some one of the petitioners who is a legal voter, to notify each elector residing within the district so to be formed, by personal service as far as convenient, and to post a notice in three public places in said new district, that such petition has been made, and that a meeting will be held, naming the time and place for such meeting, to determine the question of the proposed organization. People living upon unorganized territory may organize themselves into a school district at any time, without a petition, if a majority of the legal voters residing within the proposed district shall so decide at a meeting, of which reasonable notice has been given to all resident voters, and which meeting shall be conducted as is now provided by law for the organization of new districts; *Provided*, That, in addition to the copy of the proceedings now required by law, the secretary shall also transmit to the county superintendent a certified list of all children of school age who are residents in good faith in said district at the date of the organization.

which list shall be held to be the census list of said district until the next regular school census. [M. A. S., 3991.]

How legally organized.

1. A new district can not be legally organized with fewer than ten persons of school age residing therein.
2. Renters renting by the year and having no other home, may send their children to the school in the district in which they reside, and that district may enroll them, or, in other words, they can be counted among the ten necessary to form the district.
3. In the organization of a new district, it is legal to take cognizance of persons of school age residing within the limits of the proposed new district, whether the said persons are on the census list or not.
4. It is not necessary that there should be ten persons of school age in territory detached from one district and attached to another, but there must be left twenty persons of school age in the district from which such territory is taken.
5. There is no law prohibiting the school district which includes the county high school from separately establishing and maintaining a high school in said district, providing it is a first or second class district.

Size of territory.

6. A district having an area of less than nine square miles can not be divided for the purpose of forming a new district.
7. It is not absolutely necessary that nine square miles of territory be included in the organization of a new school district.

Twenty children in old district.

8. A school district can not be legally divided so as to leave fewer than twenty persons of school age in the old district.

Organization of.

9. At the meeting held for the purpose of determining whether or not a new district shall be organized, only those living within the boundaries of the proposed new district have a right to vote. Those living in the district from which the new district is to be formed have no voice in the matter.
10. The conditions prescribed for the formation of a new school district out of unorganized territory do not apply to the formation of a new district out of one or more old districts. (Section 85 of the school law.)
11. Under the statute the judgment of the county superintendent in matters of the division of school districts is final.
12. A two-thirds vote of the electors is necessary in order to organize a new district from old districts.
13. It is not required by law that the petitioner for territory to be annexed to a school district should be the owner of such territory.
14. Organized territory can not be legally detached from one district and added to another by the county superintendent without a petition from the residents of the territory, except in cases where the boundaries are conflicting.
15. A portion of unorganized territory may be annexed to a school district by the county superintendent upon petition of the majority of the legal voters resident within the territory to be so annexed.
16. More than one section of unorganized territory may be added to the district upon petition to the county superintendent of a majority of the legal voters within the territory.

17. In the absence of a showing to the contrary, it will be presumed that the county superintendent complied with the law in hearing and determining the appeal, and therefore that the change of boundary was properly made, but, even in the absence of such showing, as these two districts have continued to exercise undisputed the prerogatives and enjoy the privileges of legally formed districts for a period of nearly twelve years, they will now be considered legally formed districts.

Organization optional with county superintendent.

18. The county superintendent exercises his own discretion in the matter of organizing a new district, even though a petition may have been duly presented.

19. In the matter of the presentation of a petition for the organization of a new district, the statute provides that if, in the judgment of the county superintendent, the school interests of the districts affected by the proposed change, he shall direct some one of the petitioners, who is a legal voter, to notify each elector residing within the district so to be formed, etc., to attend a meeting, at which the question of organizing a new district shall be determined by vote of the electors.

This language leaves it entirely to the discretion of the county superintendent whether or not he will call such meeting, or whether or not the best interest of the districts will be promoted by such change. The matter is not subject to review by the state board of education, unless it appears that there is an absolute abuse of such discretion.

20. It is not within the province of the state superintendent to take any part whatever in the organization of a new school district. He may, however, as a member of the state board of education, pass upon the legality of such organization when an appeal is taken to the board from the decisions of the county superintendent.

21. The matter of organizing new school districts is one mainly in the discretion of the county superintendent of schools, subject to the provisions of section 86 of the school law, providing that no city or town shall hereafter be divided into two or more districts, and the districts of the first class shall not be divided except upon a vote of the electors of the district, and that no district shall be divided for the purpose of forming a new district unless it contains more than nine square miles, nor unless the remaining portion of the district shall contain twenty or more persons of school age.

22. The county superintendent has the right to grant or not to grant a petition for the establishment of a new district, and the state superintendent has no right whatever to compel any county superintendent to grant such a petition if, in the county superintendent's judgment, it is not wise or desirable.

23. The county superintendent has the right to exercise his own discretion in regard to the annexation of a portion of one district to another.

24. The county superintendent is under no obligation to transfer territory from one district to another, even though a petition as prescribed by law has been presented to him asking for such transfer. He will change boundary lines only when in his judgment the educational interests of the districts affected will thus be best promoted.

Teacher's contract—when invalid.

25. If two districts are united according to law, and a teacher holds a contract made previous to the union to teach a coming term of school in one of the districts, the newly formed district is not required to carry out that contract, since the district as originally established has ceased to exist, being now simply a part of another district; therefore, the contract by its board of directors has become null and void.

When district liable for debts.

26. Territory annexed to a school district is liable for the debts of the district from which it was detached to the extent of the tax already levied against such territory at the time of the division of the district. A remote part of the district can not take steps, after bonds have been voted and before they are issued, to set itself apart and form a new district, thus avoiding its liability for interest and principal on the bonds.

People vote on free text books.

27. In case of a new district formed from one in which text books are furnished free, the question of supplying free text books in such new district must be submitted to a vote of the people.

86 New districts—how organized—election of directors.

The qualified electors of such proposed new district when assembled in accordance with the notice above required, shall organize by electing a chairman and secretary. Every legally qualified elector, and none other, shall be entitled to vote at such meeting. After the organization of such meeting, as above mentioned, a vote shall be taken by ballot on the question whether or not the proposed district shall be organized. Those in favor of organization shall vote "yes," and those opposed "no." If two-thirds of the legal voters so voting are found to be in favor of such organization, and not otherwise, the meeting shall proceed to elect by ballot a board of directors of said district, who shall hold office until the ensuing regular election, as provided in section forty-four (44) of this act. The secretary of said meeting shall immediately transmit to the county superintendent a copy of the proceedings of the meeting, upon receipt of which, if the proceedings are found to have been in accordance with law, he shall establish and number such district and enter a record of the same, and of the proceedings of the meetings, as provided in section twenty-four (24) of this act; *Provided*, If such organization of a new district works great hardship to any head of a family, a statement of the facts may be submitted to the superintendent, and two disinterested persons, one to be named by the superintendent and one by the person affected, and if, in their judgment, good cause be shown for the transfer, he may be transferred to another district; *Provided, further*, That no district shall hereafter be divided for the purpose of forming a new district, unless it contains an area of more than nine square miles or has an assessed valuation of more than twenty thousand dollars (\$20,000.00) and forty children of legal school age, nor shall a district be divided, if by so doing the remainder of the district shall be found to contain less than twenty persons of school age, and when practicable, the district shall conform to government lines; *Provided, also*, That no city or town shall hereafter be divided into two or more districts, nor shall the districts of the first class be divided, except upon a vote of the electors of the district, submitted at an annual election, a majority of all the votes cast being in favor of such division. [3 Mills (Rev.), 3992.]

NOTE—Sections 24 and 44 above referred to are sections 55 and 94 herein.

Two-thirds vote necessary to organize.

1. A two-thirds vote of the electors is necessary in order to organize a new district from old districts.

2. In the organization of a new school district, the law requires two-thirds of the votes cast to be favorable.

Territory required.

3. It is not absolutely necessary that nine square miles of territory be included in the organization of a new school district.

4. A district having an area of less than nine square miles can not be divided for the purpose of forming a new district.

Number left in old district.

5. As to whether, in counting the number of pupils left in a district after a division has been made, the count is made from the present actual residents or from the number contained in the last census list, clearly it is expected that twenty persons shall actually be shown to be residing in the district after the division is made.

6. A school district can not be legally divided so as to leave fewer than 20 persons of school age in the old district.

7. No old district can be divided and form a new district, unless it contains an area of more than nine square miles, or has an assessed valuation of more than \$20,000.00 and forty children of school age, nor can it be divided if the remainder of the district is left with fewer than twenty persons of school age in it.

Term of office in new district.

8. Members of a school board elected in a new district hold office only until the ensuing general election of the May following.

9. When directors for a new district (not of the first class) are elected they hold office only until the ensuing regular election, when a full board shall be elected, as indicated for all districts of the first and second class in section 69, viz.: One (1) president for three (3) years, one (1) secretary for two (2) years and one (1) treasurer for one (1) year; and annually thereafter there shall be elected for three (3) years a person to fill the vacancy occurring.

10. When new school districts are formed out of an old district, that portion of the old district that retains the original number should be considered the old district, and any member of the school board residing in that part of the old district that continues to exist as the old district should fill out his full term for which he was originally elected.

Family transferred to another district.

11. In the organization of a new district, the county superintendent may transfer a family to another district.

County superintendent use discretion.

12. The matter of organizing new school districts is one mainly in the discretion of the county superintendent of schools, subject to the provisions of section 86 of the school law, providing that no city or town shall hereafter be divided into two or more districts, and the districts of the first class shall not be divided except upon a vote of the electors of the district, and that no district shall be divided for the purpose of forming a new district unless it contains more than nine square miles, nor unless the remaining portion of the district shall contain twenty or more persons of school age.

Failure to make annual report.

13. A school district, having kept up its organization and maintained a four months' school during the year, can not be annulled merely

for the reason of having failed to make the annual report. The secretary of the district is the culpable party in such a case, and is liable on his bond for any loss that may result to the district by reason of his negligence.

Text books—vote of people.

14. In case of a new district formed from one in which text books are furnished free, the question of supplying free text books in such new district must be submitted to a vote of the people.

Appeal from arbitration committee.

15. The appeal should be made to the county superintendent within thirty days after the decision of the arbitration committee and the basis of the proceeding shall be according to section 4 and section 5, school law. It is only after the decision of the county superintendent that an appeal may be made therefrom to the state board of education.

87. Uniting two or more districts—territory annexed or detached.

Two or more contiguous districts may be united into one district. For the purpose of effecting such union, each district shall, at a special meeting legally called for the purpose, determine by ballot whether or not a majority of the legal voters assembled are in favor of such union. Those in favor will vote "yes" and those opposed "no." If a majority of the voters present in each district vote in favor of a union, a union meeting shall be called by giving at least ten days' public notice, at which meeting the organization shall be perfected by the election of officers and other necessary proceedings, in the same manner as provided for the organization of districts in section twenty-eight (28) of this chapter; *Provided*, That where a first class district is joined in such union with a district, or districts, of a lower class, the board of directors of such first class district shall be held to be the board of directors for the united district, and the members thereof shall be entitled to serve the unexpired portion of their respective terms as such directors of said united district; and the board or boards of directors of the lower class districts included in said united district shall cease and determine upon notice from the county superintendent of schools that such districts have been united under the provisions of this act. Upon receiving notice from the county superintendent of such union of districts, it shall be the duty of the county treasurer to transfer all funds belonging to said districts to the credit of the new district thus formed. A portion of unorganized territory may be annexed to a school district; or a portion of one district may be detached from said district and annexed to a contiguous district, by the county superintendent, upon petition, in either case, of a majority of the legal voters resident within the territory to be so annexed, subject, always, to the limitation provided in section twenty-eight (28). [3 Mills (Rev.), 3993.]

NOTE—Section 28 above referred to is section 86 herein.

Uniting upon petition of legal voters.

1. A portion of unorganized territory may be annexed to a school district by the county superintendent upon petition of the majority of the legal voters resident within the territory to be so annexed.

2. More than one section of unorganized territory may be added to the district upon petition to the county superintendent of a majority of the legal voters within the territory.

3. A county superintendent has a right to detach a portion of one district from said district and attach it to a contiguous district upon petition of a majority of the legal voters residing within the territory to be so annexed. It is not necessary that the consent of the voters residing in the district to which the territory is to be annexed should be obtained.

4. In the case of a petition from one district asking to be united as a whole to another district, it is not necessary that the signers should be taxpayers, but they must be legal voters.

5. There is only one way in which a portion of a school district may be detached from said district, and that is in accordance with the last portion of above section, which gives the county superintendent the right to detach territory in one school district and annex it to another school district upon petition in either case of a majority of the legal voters of the territory to be annexed.

6. It would be illegal to detach property from a certain school district, leaving it as unorganized territory, since the only provision made for detaching territory is upon petition requesting that said territory be attached to some other district.

7. Organized territory can not be legally detached from one district and added to another by the county superintendent without a petition from the residents of the territory, except in cases where the boundaries are conflicting.

8. When a school district has been annulled and its territory is being annexed to other districts, people wishing to become members of other districts may petition to have land other than their own, and on which no one is residing, annexed with their land to other districts.

Contiguous—when voted upon—notice.

9. The question of uniting two contiguous school districts may be voted on at the annual school meeting in May, providing the necessary notice for a special meeting be given—that is, notices stating the purpose of the meeting must be posted at least twenty days before the time the meeting is to be held. The notices for the annual meeting will be sufficient notice if, in addition to the notice of the election, a statement of the special business to be transacted is made, and at least three notices are posted in the district twenty days previous to the date of the meeting, instead of the six days' notice, which is all the time that is required for the annual meeting.

Debts of detached territory.

10. Territory annexed to a school district is liable for the debts of the district from which it was detached to the extent of the tax already levied against such territory at the time of the division of the district.

11. The board of directors of a district can not legally transfer the funds of that district to another district.

Annulment—grounds.

12. If a district is entirely deserted and has failed to make report, etc., as specified in section 89 of the school law, the county superintendent should declare it annulled and annex it to an adjoining district simply by declaring it so added, and making the proper record. The act of uniting the two originates and concludes with the county superintendent, subject only to the restrictions specified in the law.

Transferring of territory.

13. A tenant may be set over to an adjoining district, even if the owner of the land objects to it, if done in accordance with the provisions of above section.

14. Unoccupied land can only be transferred from one district to another when transferred with other territory upon which people reside.

No provision is made for simply detaching territory from a district, so that a person who can not send a child to a school held in the district will be exempted from paying the special tax.

15. The county superintendent can not transfer territory from one district to another, except when both districts are located in the county of which he is superintendent.

Annexed territory—census.

16. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list and the district given its per capita for such additional names.

88. Organization of joint districts.

A joint school district may be formed from territory belonging to two or more contiguous counties. For the purpose of organizing a joint district, the same preliminary steps shall be taken, and the same course pursued, as is provided for the organization of other districts, in sections twenty-seven (27) and twenty-eight (28). Such district shall be designated as "Joint District No., of the counties of and," and shall be so numbered that it shall have the same number in all the counties from which it is formed. The petition required by section twenty-seven shall be made to each county superintendent interested, who shall unite in forming such districts; *Provided*, That the school census, the record of attendance at school, the assessing of property, the collection of taxes, and all other acts which from their nature should be separately kept or done, shall be kept and done, and the reports thereof made, as if each portion of said joint district belonging to each county were an entire district in the respective counties. The teachers of such joint district shall have a certificate from the superintendent of the county in which the school house is located. No joint district shall be annulled except by the consent of the county superintendents of the counties in which such district is located; *Provided*, That when any joint district desires to be annulled for the purpose of forming separate districts, it shall require a majority of the voters constituting said joint district, at a meeting called for such purpose. [M. A. S., 3995.]

NOTE—Sections 27 and 28 above referred to are sections 85 and 86 herein.

Territory attached or detached.

1. Territory belonging to a joint district can not be detached from or attached to an adjoining district without the consent of all the county superintendents interested in such joint district.

2. The only way in which any portion of a joint district can be taken from the joint district and annexed to another is by going through the procedure mentioned in above section. The joint district would have to first be annulled with the consent of the county superintendents and a majority vote of the electors of said joint district. The territory should then be annexed to the other district, in accordance with the requirements of section 87.

3. A portion of a joint district can be detached from said district and attached to another only under the provisions of above section, unless cause for annulling the district exists.

Formed by dividing counties.

4. In the organization of new counties by the general assembly the county lines, in a few cases, divided organized school districts into two parts, leaving the district in two counties; in such case, the district should be considered as a joint district.

Elections.

5. The general law in regard to the election of school directors applies to a joint district just as to any other.

Who may vote.

6. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matters of bonds, which requires a voter to be also a taxpayer.

Attached to union high school in another county.

7. A district in one county may be attached to a union high school district existing in another county.

89. When a new district shall be entitled to public school money—proviso.

No new district, formed as provided in sections twenty-seven and twenty-eight of this chapter, shall be entitled to any portion of the public school money until a school has actually commenced therein, and unless within six (6) months from the establishment of such district a school be opened and maintained, as required by law, the action making such district shall be void, and all actions had by such district, acting as a body corporate, shall cease and determine, and all taxes which may have been levied in the old district or districts out of which the new one was formed, shall be valid and binding upon the real and personal property of the new district, the same as if said new district had never been organized; *Provided*, That the county superintendent may, for good cause, extend the said six (6) months to eight (8) months; said time of limitation shall begin to run from the time of the meeting at which it was voted to organize the district; whenever any district shall, for the period of one year, fail to maintain a school and to keep up its organization of officers, and to make annual report as required by law, the county superintendent may declare such district annulled, and annex its territory to adjoining district or districts. [M. A. S., 3994.]

NOTE—Sections 27 and 28 above referred to are sections 85 and 86 herein.

School actually commenced.

1. A newly organized district is not entitled to a share of the general fund (state and county) until a school has actually begun in such district.

2. No new district is entitled to any portion of the public school fund until a school is actually commenced therein. This, however, would not necessarily exclude a district whose school might be found to be located outside of the district line through accident, if the school had been commenced in good faith.

3. Where a school district newly organized commences school in good faith in a certain building, and supposes the building where the school is held to be within the boundaries of the district, it would be entitled to draw its share of the public funds, notwithstanding the fact that the building is discovered, after the school has commenced, to be outside of the limits of the district.

4. A new school district, as soon as its organization is complete, is entitled to its share of the special fund standing to the credit of the old district, of which it was formerly a part; also to receive each month its share of the uncollected special tax; providing, always, that a school has been commenced in the district in good faith.

Failure to open school within six months.

5. Failure to open a school in a newly organized district within six months from the date of organization makes void all proceedings pertaining to the formation of the district, unless the time for opening a school therein be extended to eight months by the county superintendent.

Territory attached and detached.

6. Territory annexed to a school district is liable for the debts of the district from which it was detached to the extent of the tax already levied against such territory at the time of the division of the district.

7. Territory detached from a district which has been bonded is not released from taxation to pay both principal and interest of such bonds. Such detached territory is liable for such taxation until the bonds have been fully discharged, the same as if it had remained a part of the original district.

8. Lands to which title has not been obtained from the government at the time school bonds are issued by a district of which such lands form a part are not subject to tax for the payment of such bonds. Hence, if said lands are set off or detached from the district before title is perfected, they are not subject to a bond tax in the original district when title is complete.

9. A remote part of the district can not take steps after bonds have been voted, and before they are issued, to set itself apart and form a new district, thus avoiding its liability for interest and principal on the bonds.

10. Territory belonging to a joint district can not be detached from or attached to an adjoining district without the consent of all the county superintendents interested in such joint district.

11. Territory detached from a district which has been bonded is not released from taxation to pay both principal and interest of such bonds. Such detached territory is liable for such taxation until the bonds have been fully discharged, the same as if it had remained a part of the original district.

Transfer of general fund.

12. A school district can not lawfully transfer its apportionment of the general fund or any portion thereof to another district.

Annulment of district.

13. According to the law, whenever any district shall, for a period of one year, fail to maintain a school and keep up its organization of officers, and to make an annual report as required by law, the county superintendent may declare such district annulled, and annex its territory to adjoining district or districts, but such action must be taken by county superintendent before such district ceases to exist.

14. There is no law providing for the annulling a portion of a district that it may become unorganized territory, and it does not seem good policy to do so.

15. If a district is entirely deserted and has failed to make report, etc., as specified in section 89 of the school law, the county superintendent should declare it annulled and annex it to an adjoining district simply by declaring it so added, and making the proper record. The act of uniting the two originates and concludes with the county superintendent, subject only to the restrictions specified in the law.

16. A district may be annulled when, for the period of one year, it has failed to maintain a school, keep up its organization of officers, and make its annual report as required by law.

When not annulled.

17. "Whenever any district shall, for a period of one year, fail to maintain a school and keep up its organization of officers and to make its report as required by law, the county superintendent may declare such district annulled and annex the territory to an adjoining district or districts." Therefore, the mere fact that school has not been held in a district is not sufficient to warrant the county superintendent in annulling the district.

18. A school district, having kept up its organization and maintained a four months' school during the year, can not be annulled merely for the reason of having failed to make the annual report. The secretary of the district is the culpable party in such a case, and is liable on his bond for any loss that may result to the district by reason of his negligence.

19. Four months of school in each school year are necessary in order that a district may hold its organization. Three months of school are necessary to entitle a district to its share of the public funds. This practically makes four months of school necessary in each district.

20. A school district, in order to maintain its organization must, among other requirements, maintain at least four months' school each school year.

21. A district in which there are no pupils of school age residing may keep up an organization for an indefinite time by electing officers and making all necessary reports.

22. If the county superintendent does not declare the district annulled and it maintains a public school at least three months of the school year, it shall be entitled to the school fund for that year. This does not conflict with the decisions referred to, since a district is not annulled, except as the county superintendent declares it so.

Disposition of fund—when district annulled.

23. If a school district has failed to hold school for one year, and has failed to keep up its organization, the funds belonging to such district should be turned into the county general fund, unless its territory is attached to another district, in which case the money should be transferred to the district to which it is attached.

24. The fund belonging to a district declared annulled should be turned into the county general fund. If its property is attached to an-

other district or districts, each district shall own and hold all permanent property, such as sites, school houses and furniture situated within these boundaries. All division of funds shall be apportioned by the county superintendent whose duty it shall be to apportion said money monthly, between the fractions of the divided district, according to the location of the property on which said tax was levied.

90. When new district entitled to share of funds—apportionment.

When a new district is formed from one or more old ones, the school funds remaining to the credit of the district, after providing for all outstanding debts, excepting debts incurred for building and furnishing school houses, shall be divided as follow: The basis of division for the school fund shall be the school population, as shown by the last school census before the division of the district or districts occurred, and shall apply such funds as remain to the credit of said old district or districts at the time of the organization of said new district, and each district shall receive funds in proportion to its per cent. of the said census. In case of division, each district shall own and hold all permanent property, such as sites, school houses and furniture, situated within its boundaries. All division of funds under this provision shall be made by the county superintendent, and when there are unpaid special taxes on the county tax book, belonging to a district at the date of its division, the county treasurer, upon being notified of such division by the county superintendent, shall retain all money received in payment of said special tax until the same shall be apportioned by the county superintendent, whose duty it shall be to apportion said money monthly, between the fractions of the divided district, according to the location of the property on which said tax was levied. At the first apportionment after the organization of a new district, the county superintendent shall apportion to such district its *per capita* proportion of the general fund, but no money, either from the general or special fund, shall be paid out of the county treasury on account of such district until a school [house] shall have been begun therein in good faith. [M. A. S., 3996.]

When district can not be annulled.

1. "The above section of the school law provides for distributing any school funds remaining to the credit of a district when a new one is formed from one or more old ones, but there is no law providing for the payment of the indebtedness of a district in case it should be disorganized and wiped out of existence. The legislature never intended that a school district should be disorganized until all its outstanding obligations are provided for. The superintendent may declare the district annulled, and at the same time provide in the order in which it was contracted for the payment of such indebtedness by the district to which the territory should be attached, providing such district should consent thereto. He certainly should not make an order annulling the district until some provision is made for the payment of its outstanding warrants, and if he has done so, in any case, it could not have the effect to cancel such indebtedness or make it invalid."

Teacher's contract.

2. When a school district has been divided, in the division of funds between the old district and the newly organized district, the clause in above section which states that, "after providing for all outstanding debts, etc.,," can not be interpreted to mean contracts made with teachers for certain months of school which are yet untaught. No debt exists for the months of teaching which are yet to come.

Census list.

3. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list and the district given its per capita for such additional names.

4. The residence of the parents or guardians determines the school district in which the children's names should be listed. In case the mother has one legal residence and the father another, the residence of the mother determines the residence of the children.

Transfer of funds.

5. The board of directors of a district can not legally transfer the funds of that district to another district.

91. Districts may hold real estate—proviso.

It shall be lawful for any school district in this state to take and hold, under the provisions of chapter thirty-one of the general laws, so much real estate as may be necessary for the location and construction of a school house and convenient use of the school; *Provided*. That the real estate so taken, otherwise than by the consent of the owner thereof, shall not exceed one acre. [M. A. S., 4013.]

NOTE—Chapter 31 referred to is the chapter on "Eminent Domain," M. A. S., page 1097.

Power to condemn.

1. Upon showing that such action is necessary for the location and construction of a school house, and convenient use of the school, directors may, under the "Eminent Domain Act," condemn not more than one acre of land, and the owner must accept the amount of damage awarded.

Belongs to school district.

2. When an acre of land has been taken by a school district under the provisions of the "Eminent Domain Act," if it has been used for school purposes and no other, it belongs to the school district, and not to an individual who has recently made purchase of the quarter section of which such acre is a part. The individual purchasing the land can not collect rent from the district and can not demand pay for the land.

Title obtained through individual.

3. A school district can not perfect a title to land, as this is the power of an individual only. Before the district purchases the land the patent should be issued to some one, otherwise the title would be insecure.

Building on school land.

4. There is no authority in law giving the privilege to build upon school land without first receiving a grant from the state land board. Upon application to the register of such board, accompanied with plat and field notes of the survey, one acre will be granted your district for school purposes.

ELECTIONS.

92. Annual elections—notices posted—publication—ballot.

The regular election for electing members of school boards shall be held annually in each district on the first Monday in May, at which time it shall be lawful to transact any business pertaining to schools and school interests. The secretary of each school board shall cause written or printed notices to be posted, specifying the day and the place or places of such election, and the time during which the ballot box or boxes shall be kept open, not less, however, than three hours, and further specifying at what hour and place any other business shall be transacted. Said notices shall be posted in at least three public places in the district, one of which shall be the school house, if there be one, at least six days previous to the time of election; and in districts of the first class, said notice shall be published weekly for the four weeks next preceding such election, in some newspaper published in the district, and if there be no paper published in such district, then in a paper published in an adjoining district. If the secretary fail to give such notice, then any two (2) legal voters residing in the district may give such notice over their own names, and such election may be held after the day fixed by this act for such election. All elections shall be by ballot, and in the absence of a notice specifying the hour, the ballot box shall be opened at nine (9) o'clock, a. m., and closed at four (4) p. m. In districts of the first class, the school boards may order more than one voting place in the district, fix the voting places and the limits of the voting precincts, and appoint three (3) judges and necessary clerks for each voting place, in addition to those provided for in section forty-five. [3 Mills (Rev.), 4008.]

NOTE—Section 45 referred to in this section is section 93.

Annual election—place—time—notice.

1. The regular annual election for members of school boards is held on the first Monday in May throughout the state. Any business pertaining to schools and school interests may be transacted at that time. Notice, however, must be given of the "time and place" of such business.

2. It is not possible for school districts of the third class to have more than one voting place.

3. The question of uniting two contiguous school districts may be voted on at the annual school meeting in May, providing the necessary notice for a special meeting be given—that is, notices stating the purpose of the meeting must be posted at least twenty days before the time the meeting is to be held. The notices for the annual meeting will be sufficient notice if in addition to the notice of the election, a statement

of the special business to be transacted is made, and at least three notices are posted in the district twenty days previous to the date of the meeting, instead of the six days' notice, which is all the time that is required for the annual meeting.

4. In accordance with section 92, school law, if the notice of the annual election for the election of a member or members of the school board is posted in three places as specified in such section, for the required length of time before the election, and sets forth that such election will be held on the first Monday in May, and designates the place where the same shall be held and the continuous hours, not less than three, during which the ballot box shall be open, would be a legal election, for a member or members of such board, without specifying the particular officer or officers to be elected.

5. A change in the place of election from the one specified in the notices posted can never legally be made.

6. The board of directors determines the place or places where an election shall be held, and the secretary gives notice in accordance with such direction of the board.

7. A failure to give the required notice by the secretary would not necessarily render the regular annual school election void.

8. Where the notice of a regular annual school election given by the secretary names an unusual hour for the holding of such election—say from 6 to 9 o'clock a. m.—the fact that a majority of the residents object to the time specified in the notice and undertake to give notice for an election at a more convenient hour—say from 9 o'clock a. m. to 12 o'clock m.—is conclusive evidence that such majority had notice of the time and place fixed by the secretary in his notice, and unless it would be practically impossible to hold an election at the hour named in the secretary's notice, an election held pursuant thereto would not be invalid because of being held at an unusual hour.

Polls open three hours.

9. A school election at which the polls are not kept open three hours and the voting done by ballot is illegal.

10. It is lawful for the ballot box for voting on the question of bonding the district to be open at the same time as the one for the election of school officers.

11. School law definitely states that when the question of bonded debt is submitted to voters the ballot box shall be kept open as provided in section 92, which definitely states that the ballot box shall be kept open not less than three hours. If it can be proven that no one presented themselves for the purpose of voting during the hour after the polls closed, I would not raise the question of the legality of the vote.

Judges of election.

12. The fact that there were but two judges at a school election would not invalidate the election, if legally conducted in other respects.

Special meeting—notice.

13. A special meeting posted on annual blanks was sufficient notice, if a statement of the special business to be transacted was made and the notice was posted previous to the annual election.

Tax levy reconsidered—when.

14. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy.

This is not in any way to be considered changing the original levy, but simply voting an additional levy.

School board when not bound by action of electors.

15. A school board does not have to carry out all motions made and carried at the annual meeting of electors, unless such motions cover matters upon which the electors are entitled to pass.

93. Qualifications of electors—sex—oath—penalty for illegal voting—proposition to create debt.

Every elector, legally qualified to vote at a general election, having been a resident of the school district for thirty (30) days next preceding the day of election, shall be entitled to vote; *Provided*, That no person shall be denied the right to vote at any school district election, or to hold any school district office on account of sex; *Provided*, further, That in districts of the first (1st) and second (2nd) class, any person who may desire to be a candidate for the office of school director, shall file a written notice of such intention with the secretary of the school district in which he resides at least eight (8) days prior to the day of the holding of the annual election for school directors, and the secretary of said school district shall for five (5) consecutive days preceding the day of said election, publish in some daily paper or when no daily paper is published in such district, then by posting printed or written notices in not less than five (5) public places in such district, the names of all candidates who shall have so filed notice of such intention; and the said secretary shall also have printed or written ballots prepared, bearing the names of all candidates who have certified such intention of being candidates, as aforesaid, printed or written thereon, and no person other than those whose names appear upon the ballot so prepared, shall be voted for. Any person offering to vote may be challenged by any legally qualified elector of the district, and any one of the judges of election shall thereupon administer to the person challenged an oath, as follows: "You do swear (or affirm) that you are a citizen of the United States, or that you have declared your intention to becoming such; that you have resided in this state of Colorado six (6) months immediately preceding this election; that you are twenty-one (21) years of age; that you have resided in this district thirty (30) days next preceding this election; and that you have not voted at this election. So help you God (or under the pains and penalties of perjury.)" If he shall refuse to take such oath or affirmation, his vote shall be rejected. Any person guilty of voting illegally, shall be punished as provided in the general election laws of this state. The president, secretary and treasurer of the district school board shall act as judges of the election, except as otherwise provided in section forty-four and should any of the judges be absent at the opening of the polls, the electors present shall appoint a legal voter to fill the vacancy; *Provided, however*,

That at all elections held for voting upon a proposition to create or contract a debt by loan for the purpose of erecting or furnishing school buildings, or purchasing school grounds, only such qualified electors of the district shall vote thereat as shall have paid a school tax in such district for the year next preceding such election. [3 Mills (Rev.), 4009.]

NOTE—See Qualifications of Electors, article VII, section 1, constitution; Women Enfranchised, article VII, section 2, constitution.

NOTE—Section 44 above referred to is section 92 herein.

Qualifications of electors.

1. If persons spend the winter in town, voting in the town in the fall, and return to their homes in another district less than thirty days previous to a school election, they are not entitled to vote, since their action in voting in the November election is a declaration of their residence in the town.

2. Every person, male or female, over the age of twenty-one (21) years, who shall be a citizen of the United States, and shall have resided in this state twelve (12) months immediately preceding the election at which he offers to vote, in the county ninety (90) days, and in the district thirty (30) days, shall be a legal voter at an annual school election.

3. The law provides that no person except a qualified elector shall be elected a school director, and to be qualified he shall have resided in the county ninety days, in the city or town thirty days, and in the ward or precinct ten days, and in the school district thirty days.

4. In third class districts—that is, districts having under 350 school population—the provision of section 93, requiring eight days' notice of candidacy, is not applied. It is only in districts of the first and second class—districts having over 350 school population—that candidates are required to file written notice of such intention with the secretary of the school district at least eight days prior to the day of holding the annual election.

5. The fact that an elector is not a taxpayer does not disqualify him from holding office, either by election or by appointment.

6. There is nothing illegal in a man and his wife being members of the same school board. Since more than one director may be elected from the same family.

When election illegal.

7. An election is not illegal simply because some persons were not permitted to vote, even if it is shown that such persons had a right to vote. If the ballots excluded would change the result of the election there would be strong grounds for contesting the election. The law does not provide for the imposing of fines upon members of school boards who have not allowed persons to swear in their votes.

8. If the candidate who received the twenty votes was not a qualified elector, the election was illegal, and a special election should be called by the board within ten days and notice be given as required for regular election.

Judge of election must take oath.

9. A school board can not legally appoint any one to act as judge of a school election without requiring such person to take the oath for the same.

Special election.

10. In districts of the second class in case there is no regular nominee an election can not be legally held, and a special election should

be called by the board within ten days, or in case of the failure of the board to have properly called such a special election, the county superintendent should appoint.

Residence of director.

11. If you are not a resident of the district you could not legally be elected as a director of that district.

12. Actual residence determines one's voting place. The fact that a person has "taken up" a homestead, but is not at the time he offers to vote located upon his homestead, does not deprive him of the right to vote in the place of his actual residence. If a person is holding a homestead claim in good faith, he must retain his residence in the school district in which said homestead is located.

13. In the case of a person who had lived in a district for over a year and a half and who, after teaching six weeks in the district, went away for a certain time, expecting to return, if such a person claimed as his residence the district in which he had resided for over a year and a half, he would be entitled to vote in the district if possessed of the other legal qualifications.

When an elector not a taxpayer can vote.

14. Any person not a taxpayer, but otherwise a legal voter, is entitled to vote at a regular or special district school meeting upon all matters coming before such meeting, except upon a proposition to contract a debt by loan.

15. It is not necessary that an elector voting to place free text books in a school should have been a taxpayer in the school district for the year preceding the election.

16. It is not necessary that one should be a taxpayer to vote on the question as to where a school is to be held or a school building is to be erected. Any legally qualified elector has a right to vote on all questions save those relating to bonded indebtedness.

Must be taxpayer to vote on bonds.

17. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matter of bonds, which requires a voter to be also a taxpayer.

Who may challenge oath.

18. A person residing outside of the boundaries of a proposed new district has no legal right to challenge a voter residing within the same.

19. The president of a school board, when acting as a judge of election, can administer the oath to a challenged voter, the fact that the president requires the oath being equivalent to a challenge.

Procuring site for school house.

20. The proposition to build a school house includes procuring a site therefor. The interpretation of the law relative thereto is: *First*, that a vote is necessary; *second*, that if the land were purchased without such a vote, the sale would be invalid; *third*, section 93 of the school law, will govern the qualifications of voters.

Who may be director.

21. The laws of Colorado do not in any way prohibit a saloon-keeper from holding office as a school director, if he has been elected to that office in a legal manner.

22. More than one director may be elected from the same family.

Candidacy—when vacancy occurs.

23. In a first class district, when a vacancy occurs after the advertisement of the regular election, four weeks preceding such election,

a person who may desire to be a candidate for the office of school director, by filing a written notice of such intention with the secretary of the school district in which he resides at least eight days prior to the day of the holding of the annual election, will become a legal candidate, providing the other details specified in sections 92-93 of the school law, be observed. If the resignation occurs after the eight days specified in section 93, the board would name the director who would hold over until the regular election.

94. Counting votes—tie—special election.

Immediately after the closing of the polls, the judges shall meet at one of the voting places as shall have been previously designated by the school board, and shall proceed to count the votes, and the person or persons qualified to be elected who shall receive the largest number of votes, shall be declared elected, and a report of the said election signed by the judges shall be transmitted to the school board. If, for any cause, no election be held at the regular time, or if, upon counting the votes, there be a tie vote for any one or more of the officers, a special election shall be called by the board within ten (10) days, and notice thereof given, as required in section forty-four (44) of this act. A failure to give the prescribed notice of such special election shall render the election void. [3 Mills (Rev.), 4010.]

NOTE—Section 44 above referred to is section 92 herein.

Tie vote—special election.

1. In the case of there being a tie in the vote of two candidates for the same position at a school election, it would be necessary to hold a special election for the office, in accordance with the rules provided for special meetings.

2. At a school election, in case of a tie vote, it is the intent of the school law to provide that notice of another election shall be posted within ten days.

Power of judges.

3. The judges must determine who is legally elected. They have the power to throw out an illegal vote, providing it is done before a signed report of said election is transmitted to the school board, or the final decision is given. A special meeting is only called in case of a tie, and must be within ten days after the election.

Contest—question for courts.

4. The result of a school election must stand as announced by the judges until set aside through legal proceedings contesting the election. An election contest is a question for the courts to decide.

When county superintendent fills vacancy.

5. If the annual election of school directors is not held, and a special election is not called within the required ten days thereafter, it then devolves upon the county superintendent to fill vacancies by appointment.

When old board holds over.

6. If an election of school directors is not held, the old board does not hold over. The law provides that, within ten days after election, notice should be posted of another election.

Continued meeting.

7. When a meeting follows after the ballot box has been closed at an annual meeting, it may be regarded as simply a continuation of the first meeting.

95. Applies to all school elections.

The general provisions of sections 44, 45, 46 shall be applicable to all school elections, whether general or special, or for whatever purpose held. [3 Mills (Rev.), 4010a.]

NOTE—Sections 44, 45 and 46 above referred to are sections 92, 93 and 94 herein.

Sections prescribing manner of conducting elections.

1. Sections 92, 93 and 94 of the school law prescribe the manner of conducting the election—including the “previous notice”—(not the same in all districts) “the time during which the ballot box or boxes shall be kept open,” who “shall be entitled to vote,” “counting the votes,” “qualifying,” “administering the oath of office,” etc.

ELECTORS.

96. Qualifications of electors.

Every person over the age of 21 years, possessing the following qualifications, shall be entitled to vote at all elections:

First—He shall be a citizen of the United States.

Second—He shall have resided in this state one year immediately preceding the election at which he offers to vote; in the county, 90 days; in the city or town, 30 days; and in the ward or precinct, 10 days. [3 Mills (Rev.), 1571.]

NOTE—Section 90 also requires that a person voting at a school election, in addition to the above qualifications, must reside in the school district 30 days previous to the school election. See also Article X, section 1 of constitution.

97. Women vote—qualifications.

That every female person shall be entitled to vote at all elections, in the same manner in all respects as male persons are, or shall be entitled to vote by the constitution and laws of this state, and the same qualification as to age, citizenship, and time of residence in the state, county, city, ward and precinct; and all other qualifications required by law to entitle male persons to vote shall be required to entitle female persons to vote. [3 Mills (Rev.), 1571a.]

98. Powers of electors at meetings.

The qualified electors of districts of the third class, when assembled at any regular or special meeting shall have power:

First—To appoint a chairman and secretary in the absence of the regular officers.

Second—To adjourn from time to time, as occasion may require.

Third—To fix the site for each school house, taking into consideration in doing so the wants and necessities of the people of each portion of the district.

Fourth—To order such tax on taxable property of the district as the meeting shall deem sufficient for any of the following purposes: To pay teachers; to purchase or lease a suitable site for a school house or school houses; to build, rent or purchase a school house or school houses; and to keep in repair and furnish the same with the necessary fuel and appendages; for procuring libraries for the schools, books and stationery for

the use of the board and district meetings, and to defray all other contingent expenses of the district.

Fifth—To direct the sale or other disposition to be made of any school house, or the site thereof, and of such other property, real or personal, as may belong to the district, and to direct the manner in which the proceeds arising therefrom shall be applied.

Sixth—To transact generally such business as may tend to promote the cause of education, in accordance with the provisions of this act.

Seventh—To adopt any rules of order for the government of district meetings not incompatible with the provisions of this act, and to alter and change the same from time to time, as occasion may require. [M. A. S., 4027.]

Who may vote.

1. Any person not a taxpayer, but otherwise a legal voter, is entitled to vote at a regular or special district school meeting upon all matters coming before such meeting, except upon a proposition to contract a debt by loan.

2. All legal voters who are residents in a joint district may vote upon any questions pertaining to school matters of said district, save in the matter of bonds, which requires a voter to be also a taxpayer.

3. It is not necessary that one should be a taxpayer to vote on the question as to where a school is to be held or a school building is to be erected. Any legally qualified elector has a right to vote on all questions save those relating to bonded indebtedness.

County superintendent may institute legal proceedings to remove district officer.

4. A county superintendent has the right to demand the resignation of a member of a school board and to institute legal proceedings to remove an officer of a school district who is persistently violating the law and any elector of the district has the right to institute proceedings for the same purpose.

Site of school house determined by electors.

5. The site for a school building in districts of the third class can be selected or changed only by vote of the electors taken at the annual meeting, or a special meeting legally called.

6. A board of school directors can not legally change the site for a school building which has been selected by a legal vote of the electors of such district.

7. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

8. The law does not require that a school house shall be placed on a public road.

9. The school board of a third class district has no right to move school buildings unless directed to do so by vote of the electors of the district.

10. The power to fix the site for school houses necessarily includes the power to fix the location of the school, and after a majority of the voters of the district (third class) have decided to have the site of the

school house in a certain portion of the district, it would hardly be held as within the power of the board to defeat the will of the electors by establishing a school in some other place.

11. It takes a majority vote of the electors of the school district to decide upon a location for the school house.

12. No petition is necessary to bring the question of selecting a site for a school house before the electors concerned.

13. The location of a school house is for no definite time. A vote may be taken on the question of moving the school house as often as a meeting for the purpose can be legally called.

Building of school house, determined by board.

14. In building a school house the board of directors must keep within the appropriation of the electors. If it is desired to spend more money than the original appropriation, a meeting of the electors must be held to determine whether they will authorize the additional expenditure.

15. The law does not specify the manner in which a school board shall proceed in the matter of building a school house or whether such board shall advertise for bids or not. The board is permitted to exercise discretion in the matter, having in view at all times the best interests of the district.

16. A sale of a school house, unless authorized by vote of the electors of the district, is void and may be set aside in the proper proceedings instituted by any elector of the district or by the county superintendent.

17. The proposition to build a school house includes procuring a site therefor. The interpretation of the law relative thereto is: *First*, that a vote is necessary; *second*, that if the land were purchased without such a vote, the sale would be invalid; *third*, section 93 of the school law will govern the qualifications for voters.

18. The board have no authority to build a school house except when directed to do so by a vote of the district; the fund remaining in the treasury can not be used for building a school house, except upon a vote of the electors.

19. School must be held in a building situated within the boundaries of the district.

20. The electors of the district have the power to direct the sale of the school house and the site and empower the board to sell to the county commissioners at the stated offer if they are so inclined.

There is no law requiring it to be advertised and sold if the electors wish to make a private sale.

21. The electors of a district are the only persons who have power to levy tax for the purpose of building school houses.

22. Directors of first and second class districts have a right to sell a school building when directed so to do by the electors at a special meeting called for that purpose. Such sale should be made in the manner prescribed by the electors, which should be at public sale after proper advertisement.

23. The building of a school house as permitted by vote of the electors at the last meeting would be lawful if the meeting was a legal meeting, even though the vote was taken in reconsideration of the question as previously passed upon.

24. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district, to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

25. The electors of a district when assembled at the regular annual school meeting in a district of the third class have a right to instruct the school board as to what the material of a new school building shall be.

26. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

27. Since the building is to be used for school purposes the board would have no authority to build such addition or school room except when directed to do so by a vote of the district.

Taxes.

28. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year. It would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

29. In any district of the third class a levy on taxable property must be made by the qualified voters when assembled at any regular or special meeting, and such levy can not be made by board of directors.

30. In reply to your question as to whether a majority or plurality vote is necessary to decide a special tax levy, and whether the levy to be voted upon is to be determined by the school board or by the electors themselves in a third class district, I would say that the law requires a majority vote and that the amount of the levy should be fixed by the electors at a regular or special election.

Bonds.

31. Bonds can not be voted for sinking an artesian well; but if the district has sufficient money in its special fund, it may use that money for such a purpose on a vote of the electors.

32. A school district created from organized territory, which is already bonded for building purposes, can issue new bonds to an amount not to exceed the difference between its share of the present bonded indebtedness and three and one-half per cent. of the assessed value of its property, both real and personal.

33. Having considered the relation in which the act of 1899 stands to the school act, it appears evident that the general assembly intended to create a new and distinct school district, which should exercise all the powers of "school districts" and be classed as a school district, and in the exercise of those powers given to school districts in the state. It is, therefore, concluded that it has the right to issue bonds in accordance with the provisions of section 11 of the school act.

34. A school district has no right to create a debt except through bonding the district in accordance with the provisions of section 11 of the school law, and the further provision that warrants may be issued before the funds to pay them are actually in the treasury; *Provided*, That the total sum of such warrants does not exceed the revenue of the district for the year in which they were issued.

35. The constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness can not be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building.

36. The county superintendent has the right to protest against the registering of a school warrant when he has reason to suspect fraud, and if he has proof of fraud in connection with the warrant, he has the same

right as an elector of the district to bring proceedings to stop the payment of the warrant.

Special levy.

37. After a levy is made for a special purpose in a school district, and is also made by the county commissioners, warrants may be drawn to the amount of the revenue for the current year.

38. There is no limit to the special levy in first and second class districts.

39. There is no law authorizing the levy of a tax for a sinking fund, but section 98 of the school law does authorize the levying of a tax for building purposes. The law has been interpreted to mean that the tax levied under it must be for a specific purpose, as for building a school house, purchasing a site, etc.

40. The special tax levy should be made previous to sending in the annual report of the secretary of the district. The levy can be certified to legally by two members of the board.

41. In the call or notice of a special or annual school meeting it is illegal to specify the amount of a proposed levy and to require electors to vote for or against the levy thus proposed, without discussion or amendment.

42. When the electors have voted a definite special levy for building a school house, the board can not spend in building said school house more than the proceeds of said special levy, unless so directed by the electors.

43. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy. This is not in any way to be considered changing the original levy, but simply voting an additional levy.

44. According to legal decisions in this state, a special tax can be voted at other than the annual meeting. Paragraph 4, section 98, of the school law has been interpreted, in connection with the introduction of section 98, to authorize this.

45. A vote of the electors authorizing a tax levy for building purposes is not sufficient. The vote should include both the amount of tax levy and the authority to erect a school building.

Board right to hire teachers

46. A school board has the absolute right to engage the teacher, or teachers, for the school district. The fact that a majority of the tax payers sign a petition making a protest against the selection made by the board can not in any way affect the legal right or the action of the board in the matter of the appointment of a teacher.

47. Since the law gives the board the right to employ and discharge teachers and to fix and order paid their wages, the electors of the district could have no voice in the matter, and while the patrons of the school would have a right to circulate a petition requesting the board to engage a certain teacher, the board would have the right to ignore the petition if they desired to do so.

Free text-books by vote of people.

48. In case of a new district formed from one in which text-books are furnished free, the question of supplying free text-books in such new district must be submitted to a vote of the people.

49. The board of directors must furnish books for all pupils when instructed to do so by a majority vote of the electors of their district, as expressed at any regular meeting or special meeting called for that purpose.

50. In regard to a district board furnishing free text-books, the provisions of the law mean that a majority of the votes cast upon the question of providing free text-books for the district shall govern, and not a majority of all the electors residing in the district.

51. The fact that a district has voted to furnish free text-books to its school children, and has done so for a number of years, does not permanently bind the district so to furnish the text-books. If brought up in the manner prescribed by law, the district may again vote upon the matter.

Tuition.

52. There is no legal provision for the payment of tuition out of a fund belonging to a school district. If a tuition is charged, pupils who attend school in a district other than that in which they reside, that tuition must be paid by the parents, and not by the district from which the pupils come.

53. The laws do not provide for the payment of tuition in high school for pupils above the eighth grade from the public funds of the school district.

54. "A district can legally pay over to a high school for tuition that part of its apportionment of the general fund accredited to said district on account of such of its pupils as may be attending said high school."

EXAMINATIONS.

99. Examination of teachers—deputy—compensation.

On the third Thursday in August, December and March in each year he shall meet all persons, of not less than eighteen years of age, desirous of passing an examination as teachers, in some suitable room at the county seat, notice of which shall be given in some newspaper in the county, or in case there is no paper published in the county he shall give such notice as may by him be deemed necessary, at which time he shall examine all such applicants in orthography, reading, writing, arithmetic, English grammar, geography, history, and constitution of the United States and the constitution of Colorado, civil government, physiology, natural sciences, theory and practice of teaching, and the school law of the state. If the applicant is to teach in a school of high grade, the examination shall extend to such additional branches of study as are to be pursued in such school. If satisfied of the competency to teach and of the good moral character of the applicant, he shall give such applicant a certificate, as provided in the following section, but he shall not issue a certificate except one of like grade unless the applicant be examined at the regular state examinations. He may, however, in case of emergency, recognize county teachers' certificates issued in this or other states by endorsing thereon the word "Good" until the next regular county examination; *Provided*, That the certificates so endorsed shall be in full force at the date of such endorsement, and shall not be renewed, extended, nor show a previous endorsement thereon. If the attendance upon the examination at the county seat shall work a great hardship to five or more teachers in the county, the county superintendent may provide for such teacher or teachers to take the examination at some convenient place, and the county superintendent may appoint some suitable person to conduct such examination, who shall without delay report to the county superintendent the written answers of each application. Such person shall be entitled to five dollars (\$5.00) per day for conducting such examination, and such services shall be certified by the county superintendent to the county commissioners. [3 Mills (Rev.), 3979.]

Time of examination.

1. The laws of Colorado do not give the state superintendent the right to authorize the county superintendent to hold a special examination.
2. Examinations for teachers' certificates can not be taken at any time except at those times prescribed by law for public examinations.

Age of applicant.

3. The law provides that an applicant for a teacher's certificate must not be less than eighteen years of age. It would be illegal to grant a certificate if the applicant did not meet that requirement. It would also be illegal for a school board to employ a teacher under such circumstances.

4. It is not lawful to issue a certificate to a person under eighteen years of age.

5. When an applicant of lawful age presents himself for the county examination the county superintendent has no course other than to receive and grade the papers and report the same to the superintendent of public instruction. A county superintendent can not legally withhold a certificate at the request of a person who, as a lawful applicant, appears at the examination.

6. While the law does not state that married women living with their husbands in Colorado shall be allowed to teach, there is no law prohibiting any person eighteen years of age, who can obtain a certificate, from teaching, save when a member of the school board.

Rules governing examination.

7. The questions issued for the county teachers' examinations are divided into sections, one of which, by direction of the state superintendent, shall be presented at the beginning of each of four different sessions. The state superintendent is authorized to prescribe rules for the examination. In order that all applicants may have an equal opportunity, and to avoid the possibility of any being informed in advance of the nature of the examination, the county superintendent is instructed to break the seal of each section at the opening of the session for which it is prescribed, and in the presence of all applicants. Therefore, those presenting themselves for examination will write each portion at its designated time, beginning on Thursday and continuing through Friday.

8. The rules governing county examinations of teachers definitely states that an average of 70 per cent., no branch below 60 per cent., must be made in order to obtain a third grade certificate. Therefore, according to the established rules, a certificate issued without the required standing would be valueless.

Only one set of papers can be submitted.

9. A county superintendent has no right whatever to give a personal or oral examination to an applicant, even though such applicant has been requested to take a school and has no certificate.

10. The county teachers' examination can not be taken in parts. If an applicant is successful in some of the subjects and unsuccessful in others, the entire examination must be taken at some future time.

11. The law does not permit an applicant at a teachers' examination to take a part of the subjects required at the examination, with a view to raising the marks obtained at a previous examination. The whole examination must be taken or it is invalid.

12. The laws of Colorado do not permit teachers' examinations for certificates in this state to be conducted anywhere but in the various counties of the state.

13. The state superintendent has no right to provide for any examination other than those specified by the law.

14. An applicant for a teacher's certificate must accept the result of the examination, even though the certificate received be of a lower grade than the unexpired certificate held at the time of taking the examination.

15. There is no rule prohibiting carbon copies being taken by the applicant in the county examination of teachers if the county superin-

tendent does not object. Only one set of papers can be submitted for grading, and the carbon copies are only for the applicant's future reference.

Permits not granted.

16. There is no law authorizing the giving of a temporary permit or certificate, and it will be illegal to employ any person to teach in the public schools of the state unless such person shall have a certificate.

17. The laws of Colorado do not make it possible for a permit to teach to be granted to any teacher expecting to enter the public school work of this state.

18. There is absolutely no authority in law for a temporary permit or certificate of any nature whatever.

19. Certificates issued in other states may, in case of emergency, be recognized by endorsing thereon the word "Good" until the next regular county examination.

Endorsing certificates.

20. Since the certificate issued is only a second grade, nothing can be done except to endorse it "Good" until the next regular county examination. It would be illegal to consider it of greater value than its classification indicates, no matter what the averages may be.

21. A county superintendent may endorse a second-grade certificate issued in another county, by writing thereon the word "Good" until the next regular county examination.

22. According to law, in case of emergency you can recognize the county teacher's certificate by endorsing thereon the word, "Good" until the next regular county examination.

23. It is not legal for a school board to retain a teacher whose certificate has expired if the term of school for which such teacher is employed extends more than one month after such expiration. The law definitely states that a new certificate shall be secured. The endorsement of the certificate should read "Good" until the next regular county examination.

24. The county superintendent "May, however, in case of emergency, recognize county teachers' certificates issued in this, or other states, by endorsing thereon the word 'Good' until the next regular county examination; *Provided*, That the certificate so endorsed shall be in full force at the date of such endorsement, and shall not be renewed, extended, nor show a previous endorsement thereon."

Under this act, an emergency may be said to exist whenever there is a vacancy in any school in the county, and there can not be found in the county a teacher who holds a certificate, and who is qualified to teach that particular school, and whose services can be secured.

It is not said that there may not arise other conditions which, in the opinion of the county superintendent, might constitute an emergency, but the above is given as a general rule.

25. State Normal School diplomas and certificates from other states, or certificates from other counties in this state, may be recognized by the county superintendent only in case of an emergency. "Under this act an emergency may be said to exist whenever there is a vacancy in any school of the county, and there can not be found in the county a teacher who holds a certificate and who is qualified to teach that particular school, and whose services can be secured."

Such recognition consists of an endorsement by the county superintendent, making the certificate good only until the next examination.

26. A district board has not, in law or equity, a right to deliberately make its circumstances for the purpose of taking advantage of the emergency clause in that section of the statute which provides for granting and endorsing teachers' certificates.

27. Circumstances created for a certain purpose do not constitute an emergency, and should not be construed as such within the meaning of this section.

28. There is absolutely nothing that can be done in the case of an expired certificate. Only certificates that are in full force may be endorsed in case of emergency.

First class districts.

29. The laws of Colorado do not give county superintendents the slightest authority to recognize district certificates in any way. Such certificates are valueless so far as entitling their holders to a right to teach in other schools of the county. Neither can examinations for teachers' certificates be taken at any time except as prescribed by law for public examination.

30. Since the law provides that the certificate issued by the boards of districts of the first class must be of the same grades and under the same conditions as those specified in sections 99 and 24 of the school law, it follows that equal requirements must be made in districts of the first class as in other districts, and the board would not have the right to exempt the candidates from examination in one or more of the subjects specified in section 99 of the school law.

Endorsements.

31. The endorsing of a teacher's certificate issued in another county is optional with the county superintendent.

32. The school law positively prohibits a second endorsement of a second grade certificate which has once been recognized by the endorsement.

33. The endorsement of a first grade certificate until the next examination will not invalidate it in the county where issued.

34. In all cases, the endorsing of certificates is optional with the county superintendent.

35. The endorsement or renewal of certificates and the issuing of like grade certificates are in all cases optional with the county superintendent.

36. A certificate of like grade from one county can not be endorsed by a county superintendent of another county, but if the first certificate upon which the like grade was issued is still in force another like grade certificate upon it can be issued in another county.

37. It is impossible for a county superintendent who has endorsed a certificate to issue a renewal of the same. Any renewal of a certificate must be made in the county where the certificate was first issued.

38. The time for which an endorsed certificate is good is simply that specified by the endorsement. Section 193 applies to such cases, excepting that the teacher does not have the right to take advantage of the one month provision.

39. The state superintendent has no right to endorse certificates; that is a matter which rests with the county superintendent.

40. It is a violation of the law to endorse county teachers' certificates issued in this, or any other state, if the certificate be not in full force at the date of such endorsement. Should the board employ a teacher without a license to teach, all claim to compensation on the school fund for the term will be forfeited.

41. It is not legal for a school board to retain a teacher whose certificate has expired if the term of school for which such teacher is employed extends more than one month after such expiration. The law definitely states that a new certificate shall be secured. The endorse-

ment of the certificate shall read "Good" until the next regular county examination.

Superintendent may appoint deputy.

42. Since the bar examinations are conducted in connection with the regular county examination of teachers, the law governing county examinations would also apply to that of the bar examination, and if the attendance upon the examinations at the county seat works a great hardship to five or more teachers in the county, the law permits the county superintendent to provide for such teacher or teachers to take the examination at some convenient place, and the county superintendent may appoint some suitable person to conduct such examination.

43. Certificates may be granted only upon examination held at the time and place specified by law. If the superintendent wishes to hold an examination at another place than the county seat he must appoint a deputy who will hold the examination on the prescribed day.

44. The state superintendent has no authority whatever to authorize county superintendents to appoint deputies outside of the state; nor has he any right to send questions to any individuals outside of this state so that the county teachers' examination could be taken elsewhere than in Colorado.

45. If a county superintendent desires to obtain a certificate to teach in the county in which he resides, he is advised to appoint a deputy to conduct the examination and pass upon the answers given to the questions propounded; also, to issue a certificate in accordance with the result of the examination.

Special certificate for high school.

46. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

Teacher not entitled to pay for time lost attending.

47. A teacher is not entitled to receive pay for the time lost while attending a teachers' examination.

State superintendent can not excuse from examination.

48. The state superintendent has no authority to excuse a person from taking an examination.

Failure.

49. When a teacher holds a first grade certificate, and also one of "like grade," the fact that she fails to pass an examination in either county would not affect the standing of the first grade already obtained by her.

Eighth grade.

50. There is no specific law governing the eighth grade county examinations. The matter is entirely under the management of the county superintendent.

Answers filed.

51. The law requires that the written answers of all applicants be placed on file for three months, the same subject to the order of the state board of education.

Appeal.

52. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county. This is a mere matter of comity, and is not sanctioned by law. Therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue a certificate thereon, the board of education has no other course than to dismiss the appeal.

FINES.

100. Justice report—fines.

Every justice of the peace or other magistrate by whom any fine or penalty has been imposed which under the statute should be paid into the general school fund, shall at the next regular quarterly meeting of the board of county commissioners submit an itemized report showing date of trial, title of case, nature of offense and amount of fine, giving amounts collected, amounts uncollected, and accompany said reports with receipts from the county treasurer for amounts so collected and paid over to him. [3 Mills (Rev.), 2775a.]

101. County treasurer render statement.

The county treasurer, at the time of rendering to the county superintendent of schools his quarterly certificate of taxes collected (as provided in section sixty-six (66) of chapter XCVII being general section three thousand and sixty-one (3061) of the general statutes of the state of Colorado) shall show separately in said certified statement the amounts received from fines and by whom paid in. [3 Mills (Rev.), 2775b.]

102. Apply to those now in office.

This act shall be construed to apply to and effect those now in office during the remainder of their terms. [3 Mills (Rev.), 2775c.]

FLAGS.

103. Directors purchase flag—flagstaff—display.

The school directors of the several school districts in this state may purchase or cause to be purchased a suitable American flag of standard bunting, not less than eight by twelve (8x12) feet in size, and they may erect and maintain or cause to be erected and maintained upon each public school building or the grounds belonging thereto, a suitable flagstaff with the necessary appliances for displaying said flags, and may cause said flag to be displayed upon said staff upon all national and state holidays, the first and last days of each school term, and such other occasions as such school directors shall prescribe. [3 Mills (Rev.), 4015a.]

Directors to purchase and display U. S. flag.

1. The school law of Colorado authorizes school directors to purchase and display the United States flag upon the school buildings. This act was approved March 26, 1891. The school directors may cause to be erected and maintained upon each public school building on the grounds, a suitable flag staff, and may cause the flag to be displayed upon all national and state holidays, the first and last days of each school term, and such other occasions as the school directors shall prescribe. It is also lawful for the school directors to pay for the flag and staff from any special school fund. The law further says every school within this state may have placed and kept in a conspicuous position in each department thereof, at least one American flag of standard bunting, not less than three by five feet in size.

Pursuant to custom now established in several states of the union, the governor of this state proclaims June 14th as Flag Day, and all the public schools of the state are requested to observe the day in exercises of a patriotic character. This praiseworthy movement has been gaining ground for the past few years for establishing the custom of appropriately celebrating this important date.

104. Each department keep flag.

Every school within this state may have placed and kept in a conspicuous position in each department thereof at least one American flag of standard bunting, not less than three by five (3x5) feet in size. [3 Mills (Rev.), 4015b.]

105. Expense of purchasing and care of flag.

It shall be lawful for the school directors of each school district in this state to pay for said flags and staffs and to provide for the proper care and maintenance of the same, from any special school funds which they may have in their hands or which may be subject to their order, or to include the expense

thereof in the next annual estimate for school expenses, or in any tax levy for school purposes; and the expense thereof for any public school shall be met by said directors or other officers charged with the duty of raising or appropriating any money for school purposes as any other necessary expenses or expenditures for school purposes are raised. [3 Mills (Rev.), 4015c.]

106. Applies to all institutions.

This act shall be held to apply to all institutions directly or indirectly under the control of the state of Colorado or any of its officers, and it shall be the duty of such officer to see that this act is complied with. [3 Mills (Rev.), 4015d.]

107. Injury to flag.

Any person who shall wilfully injure, deface, or destroy any flag, flag-staff, or other materials placed in any room or building or upon any building or school grounds for the carrying out of this act, shall be deemed guilty of a misdemeanor and punished accordingly. [3 Mills (Rev.), 4015e.]

108. Superintendent of public instruction publish act.

It shall be the duty of the superintendent of public instruction to publish this act in connection with the school law of this state. [3 Mills (Rev.), 4015f.]

109. Display of flag other than United States—exception.

It shall be unlawful to display any flag upon any state, county or municipal buildings in this state, except the flags of the United States; *Provided, however,* That whenever any foreigner shall become the guest of the United States, or of the state of Colorado, or of any city of this state, or upon the occasion of the visit of any foreign minister, envoy or ambassador in his official or representative capacity, the flag of the country of which such person shall be a citizen may be displayed upon such public buildings; and it shall be unlawful to display the flag of any anarchistic society upon any public or private building or in any street procession or parade within the state of Colorado. [3 Mills (Rev.), 1968a.]

110. Violation.

Any violation of this act is hereby declared a misdemeanor and shall be punished by a fine of not less than fifty nor more than five hundred dollars. [3 Mills (Rev.), 1968b.]

FUNDS.

GENERAL SCHOOL FUNDS.

111. General school fund for building purposes—proviso.

It shall be illegal for any school board to appropriate or cause to be used any money belonging to the general school fund, for the purpose of building, furnishing or erecting additions to and school house, or for the purchase or improvement of any school house, site or lot; *Provided*, That if any portion of the aforesaid school fund remains to the credit of any district after the payment of all expenses necessary to the support of a public school for a period of ten months in any one year, in said district, it shall be lawful for the district board to use such balance for any of the purposes provided for in section 51 of this chapter. [M. A. S., 4036.]

NOTE—Section 51 referred to in this section is section 81.

NOTE—Public contracts, section 149.

Legal use of general fund.

1. "The general fund may be used only for teachers' wages, and necessary current expenses, until the school has been conducted for a period of ten months in one year."

2. The general fund may be used for building, furnishing or erecting additions to school houses, or for improving the school house, sites or lots, only after the expense of maintaining the school for a period of ten months in one year shall actually have been paid.

3. It is legal to draw on the general fund to pay the janitor who is employed in a school.

Illegal use of school funds.

4. A school board can not legally loan the money of the district.

5. The school funds can not be legally used for defraying the expenses of a singing school.

6. Insurance premiums and attorney's fees are not expenses "incidental to the support of a public school," and therefore must not be paid from the general fund.

7. A director of a school board has no right whatever to draw money from the funds of a school district to pay for his child's board while attending school in another district. Any member so misappropriating the funds of the district can be compelled by process of law to refund the money.

8. The school board has no right to use the school funds in the employment of attorneys or other expenses to antagonize the action of a board of health.

9. A school board can not legally contract for the work of instructing high school pupils to be done by a private party or corporation and pay for it out of public school funds.

For what purposes special funds may be used.

10. School directors of a district of the third class may purchase an organ for the use of the school and pay for it out of the special fund. The general fund can not be used for that purpose.

11. Bonds can not be voted for sinking an artesian well; but if the district has sufficient money in its special fund, it may use that money for such a purpose on a vote of the electors.

Two schools of five months do not meet requirements.

12. Two schools in one district, holding a five months' session each, do not conform to the requirements of the law as prescribed in section 111.

Money not turned into general fund.

13. All moneys remaining to the credit of any district on June 30 should remain to the credit of such district and can not be turned into the general school fund of the county for reapportionment.

NORMAL INSTITUTE FUND.

112. *Applicant for teacher's certificate pay fee.*

Each applicant for a teacher's certificate at any regular county examination, and each successful applicant for a renewal or endorsement of a certificate, or for the issue of a like grade certificate, shall pay for the privilege of such examination, renewal, endorsement or issue of like grade certificate, a fee of one dollar, which shall be collected by the county superintendent of schools and forwarded, with his report of each examination, to the superintendent of public instruction. [3 Mills (Rev.), 4134 h.]

Fee, when not required.

1. There is no law authorizing a county superintendent to charge a fee of \$1.00, or any other sum, for registering a certificate issued by the State Normal School.

2. Teachers' certificates issued by board of directors of first class districts are reported to the county superintendent, but they are not renewed or endorsed. Therefore, I take it that no fee would be charged for the registration of said certificates.

Fee, to whom paid.

3. The fee paid to a county superintendent by an applicant whose papers are to be forwarded to another county may be sent direct to the state superintendent and not forwarded to the other county superintendent. The county superintendent of any county should send the money to the state superintendent for all applicants taking the examination under his supervision.

4. When an examination is taken the fee should be paid to the county superintendent where the examination is held before the applicant is permitted to present any papers.

Fee for duplicate certificate.

5. A fee should be charged for issuing a duplicate certificate the same as in original issuing of certificates.

113. *Fees turned into state treasury constitute normal institute fund.*

All fees thus collected and remitted to the superintendent of public instruction shall be turned over to the state treasurer

and shall constitute a state normal institute fund. [3 Mills (Rev.), 4134i.]

114. Apportionment of normal institute fund.

At the time of apportioning the state school fund in July of each year the superintendent of public instruction shall apportion a state normal institute fund equally among the normal institute districts of the state, and the sum accredited to each normal institute district shall be transmitted to the custodian of the normal institute fund thereof in the same manner as each county's apportionment of the state school fund is now transmitted to the county treasurer; and each district's apportionment of the state normal institute fund shall be applied and expended in the same manner and for the same purposes as the fund of each normal institute district has heretofore been applied and expended. [3 Mills (Rev.), 4134j.]

PENAL FUND.

115. What fines paid to school fund—accounts—collector failing to pay —penalty—duty of superintendent.

All fines, penalties and forfeitures provided by this act may be recovered by action of debt, in the name of the people of the state of Colorado, for the use of the proper school district or county, and shall, when they accrue, belong to the respective districts or counties in which the same may have been incurred; and the county treasurers, for their counties, are hereby authorized to receive and cause to be placed to the proper credit such forfeitures. Except as otherwise provided by law, all sums of money derived from fines imposed for violation of orders of injunction, *mandamus* and other like writs, or for contempt of court, shall be paid into the school fund of the county wherein the contempt of such violation was committed; and the clear proceeds of all fines collected within the several counties of the state for breach of the penal laws, and all funds arising from the sale of lost goods and estrays shall be paid over in cash by the person collecting the same, within twenty (20) days after the collection, to the county treasurer of the county in which the same have accrued, and shall be by him credited to the general county school fund. He shall indicate in such entry the source from which such money was derived. Any officer or person collecting or receiving any such fines, forfeitures or other moneys, and refusing and [or] failing to pay over the same, as required by law, shall forfeit double the amount so withheld and interest thereon at the rate of five (5) per cent. per month during the time of so withholding the same; and it shall be a special duty of the county superintendent of schools to supervise and see that the provisions of this section are fully complied with,

and report thereupon to the county commissioners semi-annually or oftener, if required by them. [M. A. S., 4034.]

NOTE—The "Act" above referred to means original "School Act."

NOTE—County treasurer make report of fund, section 101.

NOTE—Justice report fines, section 100.

Duties of county treasurer in regard to funds.

1. The county treasurer is responsible if moneys are turned into the wrong fund by him. It is his duty to place money collected from fines, forfeitures, etc., to the fund designated by law.

2. As a rule, the money for schools from these sources (derived from fines, penalties, etc.) should be turned by the county treasurer into the general school fund of the county rather than into that of a particular district; although fines assessed by justices of the peace may, in some cases, go to the credit of the school district in which the action occurred. Generally speaking, the proceeds of all fines or forfeitures should be placed by the county treasurer to the credit of the general school fund of the county, unless otherwise expressly provided by statutes.

3. County treasurers should place the money arising from fines collected, and belonging to the school fund, in the general fund.

Duties of county superintendent in regard to fund.

4. More than any other person, the county superintendent is the one to look after that portion of the school fund arising from fines, forfeitures, etc. He should examine the books of the county treasurers, records and fee books of justices of the peace and clerks of courts, to ascertain whether or not the fines have been collected, and if collected, whether they have been placed to the credit of the proper fund and paid over.

Disposition of fines.

5. This section provides that the clear proceeds of all fines collected within the several counties of the state for breach of the penal laws shall be paid over in cash by the person collecting the same within twenty (20) days after its collection to the county treasurer, to be by him credited to the general county school fund.

6. Unless otherwise specifically provided for by law, the fines collected for breach of the game and fish laws should be placed to the credit of the general county school fund.

7. All fines, penalties and forfeitures belong to the school fund, unless the act fixing the same, otherwise provides.

FUNDS NOT LOANED OR INVESTED.

116. Officer not convert or use funds.

If any officer appointed or elected by virtue of the constitution of this state, or any law thereof, as an officer, agent or servant of an incorporated city, town, municipal township, school district, or county, or other subdivision of this state, shall convert to his own use in any way whatever, or shall use, by way of investment in any kind of property or merchandise, or shall make way with or secrete any portion of the public funds or moneys, or any valuable securities by him received for safe-keeping, disbursement, transfer, or for any other purpose, or which may be in his possession, or over which he may have the

supervision, care or control, by virtue of his office, agency or service, or under color or pretense thereof, every such officer, agent or servant shall, upon conviction, be punished by imprisonment not less than five (5) years. [M. A. S., 1248.]

117. Officer not loan funds.

No such officer, agent or servant shall loan out, with or without interest, any money or valuable security received by him, or which may be in his possession or keeping, or care or control, by virtue of his office, agency or service, or under color or pretense thereof, and any such officer, agent or servant, so loaning such money or valuable security, on conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year, or by a fine not less than five hundred (\$500) dollars. [M. A. S., 1249.]

118. No benefit from deposit of funds.

If any such officer, agent or servant shall make any contract or agreement with any person or persons, bodies or body corporate, or other association, by which such officer, agent or servant is to derive any benefit or advantage, directly or indirectly, from the deposit with such person or persons, body or bodies corporate, or other association, of any moneys or valuable securities held by such officers, agents or servants, by virtue of his office, agency or employment, such contract shall, as to such officer, agent or servant, be utterly null and void; but the person or persons, body or bodies corporate, or other association, shall be liable to the county, city, town, township or school district where funds are deposited, in an action for the recovery of all such benefits or advantage as would, by the terms of such contracts or agreement, have accrued to such officer, agent or servant; and payment to the officer, agent or servant shall not protect the person or persons, body or bodies corporate, or other association, against an action of recovery brought by the county, city, town, township or school district whose funds are so deposited. [M. A. S., 1250.]

119. Penalty.

Any such officer, agent or servant who shall make any such contract or agreement as described in the last section of this act, or who shall receive any benefit or advantage, directly or indirectly, from the deposit of any money or valuable security held by him as such officer, agent or servant, or over which he has control, care or supervision, by virtue of his office, agency or service, shall, upon conviction thereof, be punished by imprisonment in the penitentiary not less than one year or by fine not less than five hundred (500) dollars. [M. A. S., 1251.]

HIGH SCHOOLS.

COUNTY HIGH SCHOOLS.

120. Organization of county high schools in counties of fourth and fifth classes.

At any general election subsequent to the passage of this act, the question of organizing any county of the fourth or fifth class as classified by law with reference to the salaries of district attorneys and county officers into one school district for high school purposes shall be submitted to the qualified electors of such county, provided a petition signed by fifty taxpayers resident therein asking that the question be thus submitted, shall have previously been presented to the county commissioners not later than their regular October meeting. At which time the first petition presented shall be alone considered. Said petition shall state the maximum amount of tax to be levied for the support of the high school which shall in no case exceed the limit fixed by this act. [3 Mills (Rev.), 4003a.]

NOTE—Union high school, section 129.

Vote upon petition to organize.

1. The question of organizing a county high school may be voted upon at a general election; *Provided*, A petition signed by fifty taxpayers of the county asks that the question be thus submitted, and has been previously presented to the county commissioners not later than their October meeting.

School district issue bonds.

2. Having considered the relation in which the above law stands to the school act, it appears evident that the general assembly intended to create a new and distinct school district, which should exercise all the powers of "school districts" and be classed as a school district, and in the exercise of those powers given to school districts in the state. It is, therefore, concluded that it has the right to issue bonds in accordance with the provisions of section 11 of the school act.

Certificate necessary to teach in high school.

3. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

Vote by proxy to establish high school.

4. When a meeting of the school directors of all the districts of the county is called after the proposition to establish a county high school has been carried in a county, it is not necessary for the entire board of directors from each district to appear, providing the member or members of the board appearing present credentials showing that they have been

given authority by the absent member or members of the board to cast the votes of the absentees.

If no member of the board appears no vote could be cast for that district, or, if one or two members appear without the credentials from the absent member or members, the member or members present would only be entitled to cast his or their own votes.

121. High school committee—how selected—officers.

Whenever a majority of the votes cast on the question of organizing any county of the fourth or fifth class into one school district for high school purposes shall be in favor of such organization, the superintendent of schools of such county shall, by notification through the mail and by publication where practicable, call a meeting of the boards of directors of all the districts of said county, which meeting shall elect by ballot from among the members of said boards of directors a committee of four, which shall be known as the high school committee; *Provided*, That no two members of any board of directors shall, at the same time, be members of the high school committee, except in counties where there are fewer than four districts. The county superintendent of schools shall be *ex officio*, a member of the high school committee, and secretary thereof. The committee shall select from its members a president, and if need be, a treasurer. [3 Mills (Rev.), 4003 b.]

NOTE—Committee on high school, section 130.

County superintendent has vote—need not give bond.

1. The county superintendent has a vote as a member of a county high school committee. This also involves his voting whether there is or is not a tie.

2. A county superintendent need not give bond as secretary of the county high school committee, since his bond as county superintendent covers all obligations imposed upon him as an official.

County superintendent has no vote selecting high school committee.

3. The law in regard to county high schools gives the county superintendent no authority to vote with the directors of the county in selecting a high school committee, even in a case of a tie vote. But the selection of the member of such committee should be by a majority vote of all the legal votes present.

Principal has no authority over county schools.

4. The principal of a county high school has authority only over such high school rooms, and has no control over the country schools in the same district.

122. Term of office—vacancy, how filled.

The term of office of a member of the high school committee shall expire simultaneously with the expiration of his term of office as director of the school district wherein he resides, and the vacancy thus created shall be filled by the boards of directors of the various districts of the county at a meeting

held not later than thirty days subsequent to the occurrence of the vacancy. The secretary of the committee shall give each board of directors at least ten days' notice of the holding of such meeting. All vacancies caused in any other manner than by expiration of term of office shall be filled by appointment by the county superintendent of schools. [3 Mills (Rev.), 4003c.]

Expiration of office.

1. The tenure of office as a member of the county high school board expires with the expiration of the term of office of the member of the board in the district where he has been elected to office. The fact of his re-election in the district would not necessarily mean the continuance of his office as a member of the high school board. His continuing to hold the position would be entirely dependent upon the fact of his being again selected to the joint school board after his re-election as a member of the district board.

2. In case an appointment to fill a vacancy in a county high school committee is made, it holds only until the next election, and not until the appointee's term as director of the school district is concluded.

123. **Meetings of committee.**

The regular meetings of the high school committee shall be held on the first Saturday of March, June, September and December of each year, and special meetings may be held upon call of the president or secretary of said committee, or upon call of any two members thereof. [3 Mills (Rev.), 4003d.]

Twenty days' notice of special meeting.

1. It will be necessary to give twenty days' notice of the special meeting called for the purpose of voting upon the question of supplying free text books for the county high school, and notices should be posted in the various school districts composing the county high school district as is required in the case of a special district meeting or election.

124. **Powers—duties—limit of tax.**

With reference to any high school organized under the provisions of this act, or heretofore organized, as a union high school at any county seat, under section 3997, Mills Annotated Statutes. The high school committee shall exercise all the powers, and perform all the duties, that are, at the time of adoption of this act, accorded to, and required of directors or first and second-class districts throughout the state; *Provided*, that the amount of tax certified to the county commissioners for the maintenance of the high school shall in no case exceed two mills on the dollar of the assessed valuation of the county. [3 Mills (Rev.), 4003e.]

NOTE—Section 3997 above referred to is section 129 herein.

Law independent of union high school law.

1. The county high school law is entirely independent of the union high school law. The latter is in no way affected by the former.

Powers of committee.

2. The county high school committee may declare more than one voting place in the district, fix the voting places and the limits of the voting precincts, and appoint three judges and the necessary clerks for each voting place.

3. Since the powers of directors of first and second class districts are given by law to the county high school committee, such committee has the authority to examine its high school teachers.

4. The county high school committee would not have the authority to hire the county superintendent to teach in such high school, such superintendent still holding office as county superintendent, which makes him a member of the county high school committee.

5. A county high school committee has not the authority to furnish free text books to the pupils attending the school unless a majority vote of the electors of the county has been cast in favor of such action.

6. The county high school district has the right to levy a one-tenth mill tax for library purposes, just as any other district has.

7. In the case of a county high school, the high school committee acts upon the question as to the cost, time and place of building. The county may be bonded for the expenses of building just as any school district may be bonded.

8. It is the duty of the high school committee to certify to the board of county commissioners the amount of tax to be levied for county high school purposes, and it then becomes the duty of the county commissioners to levy the tax. If the high school committee fails to perform its duty it may be required to do so by *mandamus*.

School district has power to issue bonds.

9. Having considered the relation in which the above law stands to the school act, it appears evident that the general assembly intended to create a new and distinct school district, which should exercise all the powers of "school districts" and be classed as a school district, and in the exercise of those powers given to school districts in the state. It is, therefore, concluded that it has the right to issue bonds in accordance with the provisions of section 11 of the school act.

Principal can not be county superintendent.

10. In the case of the principal of a county high school being elected county superintendent, he could not legally hold both positions.

Union high school entitled to what funds.

11. A union high school, under section 129 and sections 124-126, is entitled to both its quota from the general school fund and to the county tax for the support of high schools.

Special certificate to teach in high school.

12. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

Warrants not drawn till levy made.

13. Warrants can not be legally drawn and registered on the county high school fund before the levy has been made.

125. Admission—tuition fee.

Admission to any high school organized and maintained under the provisions of this act, or heretofore organized as a union

high school at any county seat, under section 3997 Mills' Annotated Statutes, shall be upon terms prescribed by the high school committee; but no tuition fee shall be exacted from any resident of the county wherein such high school exists. [3 Mills (Rev.), 4003f.]

NOTE—Section 3997 above referred to is section 129 herein.

How county high school supported.

1. Persons attending the county high school will not draw state and county funds from the quarterly and semi-annual apportionments as a separate amount for the benefit of the high school. Their names are to be included in the various districts where they reside, said districts drawing the per capita amount for their names. The high school is expected to be entirely supported by direct taxes.

126. High school tax—commissioners levy—collected.

It is hereby made the duty of the county commissioners of any county wherein a high school is organized under the provisions of this act, or heretofore organized as a union high school at any county seat, under section 3997 Mills' Annotated Statutes, to levy annually at the time of levying taxes for other purposes, a high school tax on all the taxable property of the county, said tax not to exceed two mills on the dollar of the assessed valuation. The high school tax shall be collected, and shall be paid out by the county treasurer on warrant drawn by the secretary of the high school committee, signed by the president and countersigned by one other member. [3 Mills (Rev.), 4003g.]

NOTE—Section 3997 above referred to is section 129 herein.

Union high school entitled to what funds.

1. A union high school, under section 129 and sections 124-126, is entitled to both its quota from the general school fund and to the county tax for the support of high schools.

Levy for library.

2. The county high school district has the right to levy a one-tenth mill tax for library purposes, just as any other district has.

Not exempt from tax.

3. The maintenance of a district high school does not exempt from the tax of the county high school established at the county seat. They would still be liable to their portion of the tax levied for the support of the county high school.

127. Increase of tax levy.

Whenever, subsequent to the organization of a high school under the provisions of this act, it shall seem desirable to increase the tax levy for high school purposes, beyond the maximum fixed by the original petition, the question of such increase may be submitted to the qualified electors of the county in the

manner provided by section one of this act for the submission of the original question. [3 Mills (Rev.), 4003h.]

Tax supporting county high school.

1. As no provision has been made by the county high school law to divert any portion of the general funds from the different school districts to the benefit of the high school, it must be assumed that the legislature intended the tax provided for in the act to meet the expenses of supporting the county high school.

128. High school in district of first and second classes—organization—building—leasing—directing.

The school board of districts of the first and second classes shall have the power to establish a separate high school whenever they shall deem it expedient or necessary, and shall have power to determine the qualifications for admission to such school, and shall exercise all the powers with reference to such high school which are accorded to them in relation to the schools of lower grade; *Provided*, That no school board shall build or lease any building especially for such high school, unless authorized to do so by a vote of the district, as provided in section sixty-two (62) of this act. [M. A. S., 4016.]

NOTE—Section 62 above referred to is section 72 herein; union high schools, section 129; high schools in counties of fourth and fifth classes. See section 120.

District high school defined.

1. Districts of any of the classes may establish a union high school. The construction of the above section is, that the boards in first and second class districts may establish separate high schools. A union high school is the result of co-operation by two or more districts, while a separate high school is established within and by one district. Hence, there is no conflict between these two sections.

Branches in third class district.

2. While the law does not permit the establishment of a high school in an ordinary third class district, it does not prohibit the introduction of certain branches that are termed high school branches.

Tuition—when required.

3. There is no law existing upon our statutes that allows pupils to attend a high school in a county regardless of the district where he lives without paying tuition, unless the county has been organized in a county high school district, or unless the district where the pupils reside forms part of a union high school district.

129. Union high school—how established.

Whenever the school boards of two (2) or more contiguous school districts shall each deem it advisable to establish a union high school, the county superintendent shall, at the request of two (2) of the secretaries of the boards, call a meeting of the boards interested by giving personal notice to each member, which meeting shall elect by ballot from among the members

of said boards, if a majority of the members of each board are present, a committee of three (3), to be known as the high school committee of such union school. The county superintendent shall be, *ex officio*, an additional member of said committee, and shall preside at the meetings thereof. There shall be elected a secretary of such committee, and if need be a treasurer. In any case in which the county seat of any county shall be all included in one school district the board of such school district shall have the same powers of establishing and organizing a high school as are hereby given to the boards of two or more contiguous school districts, and in such case the high school committee shall be the board of such school district, or such three members as they may select. High schools formed under the provisions of this section shall be open to children from all districts of the county in which they are so formed, provided, such children are qualified, as hereinafter provided. [M. A. S., 3997.]

NOTE—Union high schools in counties of fourth and fifth classes, section 120.

How established.

1. Two or more school districts of any county may combine for the purpose of forming a high school, in accordance with the union high school law, still on the statutes. Such a high school is supported by its quota of the general state and county funds, any deficit to be made up from the several district funds in proportion to the number of pupils from each district who attend such high school during the preceding year.
2. Districts of any of the classes may establish a union high school. The construction of section 128 is, that the boards in first and second class districts may establish separate high schools. A union high school is the result of co-operation by two or more districts, while a separate high school is established within and by one district. Hence, there is no conflict between these two sections.
3. A district in one county may be attached to a union high school district existing in another county.
4. The directors of a third class district have no authority to establish a high school, unless such district embraces within itself a county seat.

Entitled to fund.

5. A union high school, under above section, and sections 5 and 7 of the act of the general assembly, approved April 8, 1899, is entitled to both its quota from the general school fund and to the county tax for the support of high schools.

County high school law does not repeal.

6. The law of 1900, authorizing the establishment of county high schools, by no means repeals the law providing for the establishment of a union high school by two or more contiguous districts.

Not exempt from county high school tax.

7. Two or more contiguous districts in a county can organize a union high school if so desired. In so doing, however, they would not be exempt from the tax for county high school established at the county seat. They would still be liable to their portion of the tax levied for the support of the county high school.

Liability for indebtedness.

8. Any district can withdraw previous to the contracting of any liability; they can not withdraw after the indebtedness has been incurred, without remaining liable for its share of such indebtedness.

130. High school committee—term—vacancies.

The members of said high school committee shall hold the office for and during the term they are members of their respective boards. Any vacancies in said committee, other than such as are caused by the expiration of the term of office, shall be filled by the school board of which the person so vacating was a member. The secretary shall be elected annually, and may receive such compensation as the committee shall deem proper to allow. [M. A. S., 3998.]

NOTE—Committee on high schools in counties of fourth and fifth classes, section 121.

Additional oath not necessary.

1. It is not necessary for the members of a high school committee to take an additional oath of office, the oath taken as members of the various school boards to which they were elected being entirely sufficient.

131. High school committee—meetings.

The regular meetings of the high school committee shall be held on the first Saturday of March, June, September and December of each year, and special meetings may be held at any time upon the call of the county superintendent, or of two (2) members of the committee. [M. A. S., 3999.]

132. Powers of committee.

Said committee shall exercise all the powers and perform all the duties, with reference to said high school, that are accorded to and required of school boards throughout the state, as provided in section fifty (50) of this act, and shall have power to establish and prescribe the qualifications and manner of examination for admittance to the high school. [M. A. S., 4000.]

NOTE—Section 50 above referred to is section 71 herein.

Has right of body corporate.

1. A union high school district may be bonded for the purpose of erecting a high school building. The uniting of contiguous districts into one district for a special purpose gives such district, when properly organized, the same right to act as a body corporate as other districts possess.

Powers of board not increased.

2. The circumstance that union high schools have been established does not increase the powers of boards of the third class districts in the matter of erecting high school buildings, but their powers of erecting such buildings must be derived from the electors, as in other cases.

133. How maintained—proportion of school fund—deficit.

After the first establishment of such a high school, it shall be maintained until the then next regular apportionment of the county school fund, as follows: Each district which shall have any children attending such high school shall draw from its school fund, and cause to be placed to the credit of [the] high school fund, such part of the whole expenses as shall be proportioned to the number of pupils attendant at such high school from such district, provided, it is with the approval of the directors of said district. After the first year, or part of a year, so as above provided for, the said high school shall, so far as practicable, be rated as a separate district. It shall be entitled to draw from the general, state and county funds its quota for attendance, as provided by section seventy-two of this act, and the deficit shall be made up from the several district funds in proportion to [the] number of pupils from each district who attended said high school during the then past year. [M. A. S., 4001.]

NOTE—Section 72 referred to in this section is section 58.

Apportionment of school fund.

1. A district can legally pay over to a high school as to tuition that part of its apportionment of the general fund accredited to said district on account of such of its pupils as may be attending said high school.

2. The amount of the general fund apportioned to a pupil attending a union (not county) high school should be credited to such high school and not to the district in which he resides.

Maintenance of district high school does not exempt county high school from tax.

3. The maintenance of a district high school does not exempt from the tax of the county high school established at the county seat. They would still be liable to their portion of the tax levied for the support of the county high school.

Tuition not paid from district funds.

4. The laws do not provide for the payment of tuition in high school for pupils above the eighth grade from the public funds of the school district.

134. Forty weeks annually—who may be admitted.

The high school may be maintained during forty (40) weeks in each year, and shall be free to all children in the county who are qualified for admission, according to the requirements prescribed by the committee, and all children in the county who are so qualified, and who can pass the examination prescribed by the committee shall be entitled as of right to attend said high school. [M. A. S., 4002.]

Pupils not draw money for common and high school.

1. A pupil can not be listed as a union high school pupil and also as a pupil of the district in which he resides and draw general school money for both common and union high schools.

When tuition is required.

2. There is no law existing upon our statutes that allows pupils to attend a high school in a county regardless of the district where he lives without paying tuition, unless the county has been organized in a county high school district, or unless the district where the pupils reside forms part of a union high school district.

135. Every district contributing have voice in election.

Every district in the county which contributes to the support and patronage of said high school shall, by its board of directors, be entitled to a voice in the election of members of the committee. [M. A. S., 4003.]

UNION HIGH SCHOOLS IN COUNTIES OF FOURTH AND FIFTH CLASSES.**136. Organization.**

In all counties of the fourth and fifth classes, all school districts lying adjacent to an incorporated town or city may be organized into a union high school district. [3 Mills (Rev.), 4003i.]

How organized.

1. The school districts that may be organized into a new union high school district, with an incorporated town or city as a center, must all lie in one county; but when a union high school district already exists, a school district in another county may be attached to it by vote of the electors.

2. Districts of any other classes may establish a union high school. The construction of section 128 is that the boards in first and second class districts may establish separate high schools. A union high school is a result of co-operation by two or more districts, while a separate high school is established within and by one district. Hence, there is no conflict between these two sections.

137. How supported—annual levy—building.

The county commissioners of each of said counties are required to levy a tax of not less than one or more than three mills upon all taxable property in such high school districts when the same shall have been organized, for the support of such school. Such levy shall be made annually after the organization of the said district shall have been made, at the same time that other taxes are levied.

It shall be the duty of the school district in which such school or incorporated town is incorporated to provide, at its own expense, a suitable building for the use of such union high school. [3 Mills (Rev.), 4003j.]

138. Addition—outlying district.

Any outlying school district not contiguous to such city or incorporated town may, by a majority vote of the duly qualified

electors of such district, be added to any such union high school district within the county; and where it is more convenient for the pupil of any school district to attend school in a union high school of another county, such district may be attached, by such vote, to the union high school district of an adjacent county. [3 Mills (Rev.), 4003k.]

139. **No conflict.**

The organization of these union high school districts shall not affect the organization nor the levy of the regularly organized districts. [3 Mills (Rev.), 4003l.]

140. **School board—how constituted—election.**

The county superintendent shall, on or before the first day of May, 1903, appoint one member from each of the adjoining or outlying districts composing such union high school districts who shall, together with the members of the regularly organized district in which the building is located, constitute the school board of such union high school district. Each following year the members of the school board shall be elected at the regular annual meeting of the several districts. [3 Mills (Rev.), 4003m.]

141. **Qualifications to enter—course of study.**

The qualifications necessary to enter such union high school shall be a diploma from the county superintendent upon completion of the eighth grade work, or a certificate issued upon grades in lieu of the eighth grade work. The county superintendents of the several counties shall, at their first annual state meeting, appoint a committee of five, who shall formulate a course of study for such union high schools, such course to be uniform in all the grades. [3 Mills (Rev.), 4003n.]

HOLIDAYS AND SCHOOL YEAR.

142. School year—month—week—day—national holidays.

The school year shall begin on the first day of July and end on the thirtieth day of June. A school month shall be four weeks, a school week five days, and a school day shall not exceed six hours, excluding the time of intermission at noon. The term "national holiday," in this chapter, shall be construed to mean Thanksgiving day, Christmas day, New Year's day, Washington's birthday, Decoration day, Labor day and the fourth day of July. [M. A. S., 4044.]

NOTE—In addition to the above, 3 Mills (Rev.), 1625rl, designates election day in November as a legal holiday; 3 Mills (Rev.), 2127, designates Lincoln's Birthday as a holiday, and Flag Day, as designated by the governor, is also usually observed as a holiday. See, also, following section for Arbor Day.

What constitutes a legal holiday.

1. A legal holiday falling upon Sunday, it is customary to observe Monday.
2. The twenty days of a school month include such holidays as may occur on school days within that month.
3. The time between Christmas and New Year's may be given to the teacher if the school board chooses to do so, but it does not legally belong to him.
4. A school board has the right to determine the time and duration of vacations.
5. Labor Day, being a legal holiday in Colorado, one is not required to teach a day during the month of September to make up for the school day lost.
6. When school opens on the Tuesday following Labor Day, Labor Day is counted as a holiday, and is not required to be made up by teacher.
7. Lincoln's Birthday is considered a legal holiday. When a holiday occurs on Sunday it is customary to observe the following Monday. The school board has the right to determine the time and duration of vacations and they do not legally belong to the teacher. Vacations are deducted or made up, if there is no contract to the contrary.

Teacher entitled to salary for legal holidays.

8. A teacher is not obliged to make up legal holidays which occur on school days during the term of school for which she is employed, and she receives her salary for such days just as if school had been held.
9. A teacher is entitled to have as holidays the days designated as such by the laws of Colorado, and is entitled to receive her pay for the same when occurring on school days during her term of school.
10. A school board has no right to deduct from a teacher's salary for legal holidays occurring on school days during the school term.
11. Teachers of the public schools are to be paid for the term for which they are employed, without regard to the intervention of holidays.
12. If a teacher is engaged by the year at an annual salary, vacations are not deducted. If he is employed by the month, and paid a fixed

sum per month, vacations are deducted, if there is no contract to the contrary. A teacher could just as lawfully claim pay for the long summer vacation as for the customary holiday vacation.

13. In the absence of an express provision in a teacher's contract excluding holidays, the teacher is entitled to pay for all holidays coming within the school week included in the period of employment.

14. If, with the consent of the directors, a teacher holds school on a legal holiday to make up for a day lost, the teacher is entitled to pay for the full month.

15. To be entitled to his salary for the day, the teacher should remain in the school room after the hour of opening, both forenoon and afternoon, a sufficient time to determine that no pupils will be in attendance.

Year.

16. The term "year," used in the act entitled, "An act to secure to children the benefit of an elementary education," is defined to mean the school year. And the term, "A court of competent jurisdiction," used in the same act, is defined to mean a justice, a county or a district court.

17. The fiscal year, with reference to which all taxes are levied, and all revenue matters are provided for, begins with December 1st and ends November 30th, while the school year as relating to the making of reports, election of officers and term in which the necessary months of school must be held, is between July 1st and June 30th.

Time to hold organization.

18. The three months' school required by law to hold the organization of a district and secure an apportionment should be held between July 1st and June 30th.

19. The law requires that school shall be taught five days in the week. There is no provision which would make it illegal to hold school on Saturday.

Hour's intermission.

20. The teacher has a right to her hour's intermission at noon, providing she teaches the requisite six hours through the day. She is required to teach school from 9 a. m. to 4 p. m., unless the board gives her permission to finish at an earlier hour.

ARBOR DAY.

143. Arbor day—third Friday in April—how to be observed.

The third Friday in April of each year shall be set apart and known as "Arbor Day," to be observed by the people of this state in the planting of forest trees for the benefit and adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of the day so established; *Provided*, That the actual planting of trees may be done on the day designated, or at such other most convenient time as may best conform to local climatic conditions, such other time to be designated and due notice thereof given by the several county superintendents of schools for their respective counties. [M. A. S., 2129.]

144. Holiday in schools—how observed.

The day, as above designated, shall be a holiday in all public schools of the state, and school officers and teachers are re-

quired to have the schools under their respective charge observe the day by planting of trees or other appropriate exercises. [M. A. S., 2130.]

Legal holiday.

1. Arbor Day is a legal holiday and expressly stated as such by the laws of this state. However, it is not a holiday in the sense that the schools may be closed upon that day, since certain observances are required on the part of the schools.

2. It is not lawful to dismiss school on Arbor Day, since, while it is a holiday, the law plainly declares that the day shall be properly kept by appropriate exercises, tree planting, etc.

**145. Governor issue proclamation—superintendent of public instruction
—county superintendents—report.**

Annually, at the proper season, the governor shall issue a proclamation, calling the attention of the people to the provisions of this act and recommending and enjoining its due observance. The superintendent of public instruction and the respective county superintendents of schools, shall also promote, by all proper means, the observance of the day, and the said county superintendents of schools shall make annual reports to the state forest commissioner of the action taken in this behalf in their respective counties. [M. A. S., 2131.]

INTEREST.

146. Rate of interest on orders and warrants.

County orders and warrants, town and city and school orders and warrants and other like evidences or certificates of municipal indebtedness shall bear interest at the rate of six per centum per annum from the date of presentation thereof for payment at the treasury where the same may be payable, until there is money in the treasury for the payment thereof, except when otherwise specially provided by law, and every county treasurer, town treasurer and city treasurer to whom any such county, town, city or school order or warrant is presented for payment, and who shall not have on hand the funds to pay the same, shall endorse thereon the rate of interest said order or warrant will draw, and the date of such presentation, and subscribe such endorsement with his official signature; *Provided*, That all such orders and warrants may be made to bear a lower rate of interest than above specified, by special agreement between such counties, towns and cities issuing the same, and the person to whom such orders or warants are issued. [3 Mills (Rev.), 2254.]

KINDERGARTENS.

147. Free kindergartens may be established—cost.

The school board of any school district in the state shall have power to establish and maintain free kindergartens in connection with the public schools of said district, for the instruction of children between three and six years of age, residing in said district, and shall establish such courses of training, study and discipline, and such rules and regulations governing such preparatory or kindergarten schools as said board may deem best; *Provided*. That nothing in this act shall be construed to change the law relating to the taking of the census of the school population, or the apportionment of state and county school funds among the several counties and districts in this state; *Provided, further*. That the cost of establishing and maintaining such kindergartens shall be paid from the special school fund of said districts, and the said kindergartens shall be a part of the public school system and governed as far as practicable in the same manner and by the same officers as is now, or hereafter may be, provided by law for the government of the other public schools of the state; *Provided, further*, That teachers of kindergarten schools shall have a diploma from some reputable kindergarten teachers' institute, or pass such examination on kindergarten work as the kindergarten department of the state normal school may direct. [3 Mills (Rev.), 4015g.]

Certificates.

1. Under the act of 1893 a Colorado school board may lawfully employ a kindergarten teacher having a diploma from some reputable kindergarten teachers' institute outside of the state of Colorado, and it is not necessary that such teacher shall first pass an examination directed by the kindergarten department of the state normal school.
2. It is illegal to pay from the public fund a kindergarten assistant who holds no teacher's or kindergartner's certificate.
3. A district of the first class has no authority to issue kindergarten certificates.
4. It would not be legal for a district of the first class to employ a teacher for kindergarten work if the board's certificate is the only credential that she holds in connection with such work.

NORMAL INSTITUTES.

148. Normal institutes—time and place—how determined.

For the purpose of organizing and maintaining teachers' normal institutes, the state shall be divided into the following institute districts, viz.: The counties of Sedgwick, Phillips, Logan, Yuma, Washington and Morgan to constitute normal district No. one (1). The counties of Weld, Larimer and Boulder to constitute normal district No. two (2). The county of Arapahoe to constitute normal district No. three (3). The counties of Gilpin, Clear Creek and Jefferson to constitute normal district No. four (4). The counties of Douglas, Elbert and El Paso to constitute normal district No. five (5). The counties of Kit Carson, Lincoln and Cheyenne to constitute normal district No. six (6). The counties of Fremont, Custer and Pueblo to constitute normal district No. seven (7). The counties of Kiowa, Otero, Bent, Prowers and Baca to constitute normal district No. eight (8). The counties of Huerfano and Las Animas to constitute normal district No. nine (9). The counties of Saguache, Costilla, Conejos and Rio Grande to constitute normal district No. ten (10). The counties of La Plata, Montezuma, Archuleta, Dolores and San Juan to constitute normal district No. eleven (11). The counties of San Miguel, Ouray, Hinsdale, Mesa, Delta, Montrose and Gunnison to constitute normal district No. twelve (12). The counties of Chaffee, Lake, Park, Pitkin, Eagle, Summit, Garfield, Routt, Rio Blanco and Grand to constitute normal district No. thirteen (13). Provided, That new counties formed within the limits of any institute district shall be a part of said district. A normal institute for the instruction of teachers and those desiring to teach may be held annually for a term of not less than two weeks in each normal district of the state. The county superintendents of each institute district shall annually select not more than three of their number as an executive committee, who, with the advice and consent of the superintendent of public instruction and the president of the state normal school, shall determine the time and place of holding such normal institute, and shall select a conductor and instructor for the same. To defray the expense of said institute the executive committee shall require the payment of one dollar registration fee for each person attending the normal institute, and each county superintendent is hereby authorized to add five per cent. to the average standing in examination of teachers who shall attend the normal institute from his county. When a normal institute of not less than two weeks is held in any institute district of the state the executive committee in

charge shall certify to the boards of county commissioners of the several counties within the district the number and names of the persons attending said institute from their respective counties, and it shall be the duty of the board of county commissioners of the county where such persons belong to appropriate the sum of two dollars for each person so certified. The funds arising from registration fees and appropriations of county commissioners shall be designated the "Normal institute fund," and some county treasurer, whom a majority of the county superintendents of the district shall designate, shall be the custodian of said fund. The executive committee shall, at the close of each institute, transmit to said custodian all funds received by it, as provided in this section, together with the name of each person paying a registration fee. The executive committee shall also report to the several boards of county commissioners in the district, the name and address of the custodian of the "Normal institute fund." On the receipt of such notice the several boards of county commissioners shall issue warrants for the appropriations provided in this section, payable to said custodian. It shall be the duty of the superintendent of public instruction, annually, when the executive committee of any normal institute district shall certify that not less than twenty persons have paid the registration fee, and have received instructions during the session of the institute, to certify the same to the auditor of state, who shall forward to the custodian of the "normal institute fund" of such district a warrant on the state treasurer for the sum of fifty dollars, to be paid out of any money appropriated for that purpose. All disbursements of the "normal institute fund" shall be upon the order of the executive committee, and no order shall be drawn on said fund except for claims approved by said committee for services rendered and expenses incurred in connection with the normal institute. It shall be unlawful to pay any one from the institute fund for services as conductor or instructor for such institute, who does not hold a certificate or qualification for such work, issued by the state board of education, upon the recommendation of the state board of examiners; *Provided*, That a member of the state normal school faculty shall be *ex officio* a conductor of normal institutes. [3 Mills (Rev.), 4048.]

NOTE—Mineral county made a part of normal institute district No. 10. (L. '97, page 180, section 1.)

NOTE—Teller county made a part of the fifth normal institute district. (L. '99, page 365, section 13.)

NOTE—Arapahoe and Adams, with the city and county of Denver, constitute normal institute district No. 3. [L. '01, page 137, section 13; L. '03, page 169, section 14.]

Five per cent. credit for attendance.

1. The five per cent. credit for attending normal institute may be given at any examination during the year immediately following such attendance.

2. A county superintendent is under no obligation to add five per cent. to the standing of applicants for teachers' certificates who attend the normal institute from a county other than his own.

3. The five per cent. of general average may be added to the general average obtained in a teacher's examination for institute attendance in another normal district if the county superintendent issuing the certificate desires to do so.

4. It is not intended by law that the five per cent. for attendance at normal institute shall be added in any county unless the applicant has attended a normal institute in this state during the whole time it is in session.

5. In giving a person attending a normal institute five per cent. upon the average obtained in a teachers' examination, the five per cent. so added should be computed upon the general average obtained, and not be given as straight five per cent.

6. The credits which county superintendents are instructed to give to applicants for certificates by reason of attendance at the normal institutes should be given to those persons only who have attended an institute in Colorado.

Session.

7. Two weeks' session of the normal institute must be held. If the session is shorter, the county commissioners are under no obligation to pay for teachers attending from their county.

Teacher not paid for attendance.

8. Where a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher for the same, as if she had taught school, although the school board would have the right to give the teacher such a day and pay her for it upon the request of the county superintendent. The right in the matter rests with the district board.

Pay for services as conductor.

9. It shall be unlawful to pay any one from the institute fund for services as conductor or instructor of such institute, who does not hold a certificate or qualification for such work, issued by the state board of education upon the recommendation of the state board of examiners; *Provided*, That a member of the state normal school faculty shall be *ex officio* a conductor of normal institutes.

Time and place of normal—how determined.

10. The executive committee from each normal institute district with the advice and consent of the state superintendent of public instruction, and the president of the state normal school, shall determine the time and place of holding such normal institute, and select a conductor and instructor for the same.

Certificate not endorsed.

11. A normal institute certificate need not be endorsed. The certificate is good until revoked by the state board of education, or until the expiration of the time specified on the face of the certificate.

Fee.

12. The law requiring a dollar fee for a teacher upon taking the examination, in no way does away with the requirement of the attendance fee for attending a normal institute.

Meeting of committee—by whom called.

13. If the president of an institute executive committee fails to call a meeting of the committee it would be proper for the other two members to call a meeting, giving the president notification of such meeting; and

at such meeting it would be proper to transact the necessary business to establish and maintain a successful institute.

Attendance of county superintendent at district normal not compulsory.

14. There is nothing in this act imposing a duty upon county superintendent to attend a district normal, and a county superintendent who does so is not entitled either to mileage or a per diem compensation, though he is a member of the executive committee of the normal district.

PUBLIC CONTRACTS.

149. Officer not interested in contract.

Whenever any officer of this state or of any county, city, town or school district therein, shall be charged with the duty of making any contract for or on behalf of this state, or of any county, city, town or school district therein shall be obliged to pay any sum of money to any person whomsoever, and whenever any such officer, as a member of any board of auditors, commissioners or directors, or otherwise, shall have any vote or voice in awarding any such contract, it shall not be lawful for any such officer to become in any manner bound for the fulfillment of such contract, or to take or receive any part or portion of the money specified in such contract, or to be in any way, manner or degree, interested in such contract, excepting in his official representative capacity. [M. A. S., 3533.]

Director not make contract with board.

1. Any member of a board of directors who shall have any voice or vote in awarding a contract can not lawfully enter into any part in the fulfilling of said contract; nor can he take or receive any part or portion of the money specified in said contract, or be in any way, manner or degree interested in said contract, except in his official representative capacity. Any elector of the district or the county superintendent can take steps to prevent a member of the board from acting in violation of this law.

2. A school director can not legally become a teacher in the district in which he holds that office.

3. A school director has no right to cause his district to be in any way indebted to him unless such director happens to be secretary of the district and compensation has been allowed, in which case he makes out a warrant to himself, and that warrant is signed by the treasurer.

4. Contracts made by a school district with a school director in violation of the law relative to public contracts are void.

School board let contract to husband of director.

5. A school board can legally let a contract to a man whose wife is a member of the school board, as the fact that the wife is a member and is, therefore, excluded from being a party to a contract with the district would in no way affect the husband, who is not a member of the school board.

150. Penalty.

Whosoever shall offend against the provisions of this act shall be imprisoned not exceeding six months, and fined not exceeding \$2,000, and shall be removed from office. [M. A. S., 3534.]

151. Officers dealing in warrants.

It shall be unlawful for any county, city, town or school district officer in this state to buy, purchase, trade in or acquire, either directly or indirectly, any county, city, town or school district warrant or any other evidences of county, city, town or school district indebtedness of the county of which he is such officer at the time. Any violation of the provisions of this act shall be adjudged a misdemeanor and punished in the discretion of the court by a fine not exceeding five hundred dollars (\$500), or imprisonment in the county jail for a period of not more than thirty (30) days. [3 Mills (Rev.), 1358a.]

PUBLIC SCHOOLS.

152. Public school defined.

A public school is hereby defined to be a school that derives its support entirely, or in part, from moneys raised by a general state, county or district tax. [M. A. S., 4041.]

What constitutes a public school.

1. The departments of a school can not be legally considered as separate schools.
2. Where a school is conducted as a public school, even though it is supported by other than public school money, it will be proper to include that part of the term coming after the five months provided for by the school fund, as if it were also supported by the public school fund, and the teacher should make her report for the whole time during which the school was held.
3. If the extra two months of school which are partially paid for by donations from the citizens are held in the school house and the school is conducted as a public school, the additional months should be counted as a part of the term of school for the year.
4. If a school teacher is engaged to teach a school in a district and is paid even in part from the public school fund, the school is a public school, open to all children eligible to attend school in the district, and such a school must be controlled as any other public school is, even if supported in part by private subscription.

Summer school.

5. While a school board would, if they felt so disposed, have a right to establish a summer school, they would not have the right to limit the attendance to those pupils recommended by the teachers, and some others, and require those who desire to attend the school without the recommendation to pay their own tuition. It would, however, be legal to establish such a school for certain grades, limiting the attendance to the specified grades.

153. Schools taught in English language—hygiene—Spanish—German—humane treatment to animals.

The public schools of this state shall be taught in the English language, and the school boards shall provide to have taught in such schools the branches specified in section fifteen of said chapter; and such other branches of learning in other languages as they may deem expedient, including hygiene, with special reference to the effects of alcoholic stimulants and narcotics upon the human body, and shall cause to be given in each school week two lessons of not less than ten minutes duration each on the subject of humane treatment to animals; and whenever the parents or guardians of twenty or more children of school age shall so demand, the board of such school district may procure efficient

instructors and introduce the German and Spanish languages, or either of them, and gymnastics, as a branch of study into such school; and said district board may, upon like demand of the parents and guardians of children of school age, procure efficient instructors to teach the branches specified in said section fifteen, in the German and Spanish languages, or in either of said languages, as said board may direct. [3 Mills (Rev.), 4043.]

Note—Section 15 above referred to is section 99 herein.

German—when taught.

1. The school board has no right to introduce German without a petition from the parents or guardians of twenty or more children of school age.

2. The demands of a compulsory education law would not be met in case a child attended a private school in which the German language was used, as the intent of the law is that the child shall receive for the time specified equivalent instruction to that given through the public schools, which the law requires shall be taught in the English language.

Certificates for special teachers.

3. School boards have authority to employ special teachers for special branches, but such teachers must have valid certificates in order to entitle them to be paid from the school funds, even though such teaching is done outside of regular school hours.

154. Schools open, to whom.

Every public school, except high schools, shall be open for the admission of all children between the ages of six (6) and twenty-one (21) years residing in that school district during at least four school months in each year, and the school board shall have power to admit adults, and children not residing in the district, if they see fit so to do, and to fix the terms of such admission. [M. A. S., 4042.]

Who entitled to privileges.

1. All persons between the ages of six and twenty-one are entitled to all the privileges of the public schools.

2. Children six years of age are entitled to school privileges, and it is the duty of the board of directors to provide adequate accommodations for them.

3. A school board has the right to make a rule that children who become six years of age during the school year shall enter school only at certain times—say at the beginning of the fall, winter or spring term. It is not proper to admit a child who is under six years of age.

4. In the case of a child under school age the parent would have no legal right to send such a child to school, no matter how well advanced or capable the child might be. The board would have the right to exclude the child from school even though he obey the teacher and does the work well.

Maintain organization.

5. Four months of school in each school year are necessary in order that a district may hold its organization. (See sections 89 and 155.) Three months of school are necessary to entitle a district to its share of the

public funds. This practically makes four months of school necessary in each district.

6. A school district in order to maintain its organization must, among other requirements, maintain at least four months' school each school year.

7. The four months referred to in above section is the time necessary to comply with the requirements for holding the organization of a district. A three months' term is necessary to entitle the district to receive its share of the general school fund.

Directors' power.

8. A school director can not legally become a teacher in the district in which he holds that office. See section 2606, General Statutes of Colorado, 1883, page 82.

9. The power to employ or discharge teachers rests solely with the school board, and not with the county superintendent or directly with the electors of the district. This applies also to vacancies that may occur by reason of sickness or any other cause.

10. A school board has no authority to employ an interpreter in Mexican districts to help out a teacher who does not understand the Spanish language.

Vaccination authorized by county board of health.

11. If the school board has demanded that the pupils of a school be vaccinated, its action being authorized or required by the county board of health, pupils should comply with the requirements made. The county board of health is expected to act in accordance with the rules and regulations of the State Board of Health, and also to see that all necessary precautions are taken in the schools of their counties to guard against contagious diseases.

Electors vote to erect teacher's residence.

12. When the electors of a school district, at a legal meeting, vote to erect a building on the school site of the district to be used as a teacher's residence, and vote a special tax for that purpose, such action legally authorizes the directors of the district to contract for the erection of such a building.

Term lengthened by private subscription.

13. If the term of a public school be lengthened by private subscription, the time of such lengthening may be counted toward providing for the length of term required by law.

By private subscription.

14. If a school teacher is engaged to teach a school in a district and is paid even in part from the public school fund, the school is a public school, open to all children eligible to attend school in the district, and such a school must be controlled as any other public school is, even if supported in part by private subscription.

15. While a school board would, if they felt so disposed, have a right to establish a summer school, they would not have the right to limit the attendance to those pupils recommended by the teachers, and some others, and require those who desire to attend the school without the recommendation to pay their own tuition. It would, however, be legal to establish such a school for certain grades, limiting the attendance to the specified grades.

Building--where situated.

16. School must be held in a building situated within the boundaries of the district.

155. Failure to maintain school for three months.

Any school district failing to maintain a public school at least three months of any school year, shall not be entitled to receive any portion of the school fund for that year. [M. A. S., 4040.]

Maintain organization entitle to fund.

1. The three months' school required by law to hold the organization of a district and secure an apportionment should be held between July 1st and June 30th.

2. A district which holds no school, but whose pupils by authority of the school board attend school in another district, the school board paying tuition to such other district, does not comply with such requirement and is not entitled to its pro rata share of the general school fund.

3. Four months of school in each school year are necessary in order that a district may hold its organization. (See sections 89 and 154.) Three months of school are necessary to entitle a district to its share of the public funds. This practically makes four months of school necessary in each district.

4. No school, except one duly organized according to law, is entitled to recognition as a public school, either in the distribution of funds or in any other official way.

5. If the term of a public school be lengthened by private subscription, the time of such lengthening may be counted toward providing for the length of term required by law.

Held—where.

6. School must be held in a building situated within the boundaries of the district.

When.

7. If a school teacher is engaged to teach a school in a district and is paid even in part from the public school fund, the school is a public school, open to all children eligible to attend school in the district, and such a school must be controlled as any other public school is, even if supported in part by private subscription.

SCHOOL CENSUS.

156. Census—school age.

A school census is hereby defined to be a census embracing all persons between the ages of six and twenty-one years. School age is hereby defined to be any age over six and under twenty-one years. [M. A. S., 4045.]

NOTE—County Superintendent examines census, section 56.

Who included in census.

1. If territory is added to a district after the annual census of that district has been taken, the names of persons of school age residing in the annexed territory should be added to the census list and the district given its per capita for such additional names.

2. Deaf mutes and blind persons between the ages of six and twenty-one should be included in the school census.

3. The names of all persons of school age must be included in the census. The law makes no exception in regard to married persons.

4. In determining the residence for the purpose of taking school census, it matters not where the unmarried person of school age may be whose parent or guardian lives in the state, the residence of such person is fixed by the *bona fide* residence of the parent or guardian, and this must be determined by the census enumerator.

5. If renters renting by the year and having no other home send children to school, the district in which they are residing in a rented house should enroll the children.

If renters rent by the month, leaving when school is out, and having a fixed home elsewhere, the children should be enrolled in the district where the fixed home is located.

If renting by the month and having no home elsewhere, although leaving when school is out, the children should be enrolled in the district where they rent.

If the mother votes in a certain district, living there with the children, that would be her residence and the children should be enrolled in such district.

6. A non-resident of a school district is one whose permanent dwelling place is not within the boundaries of that district.

7. The residence of a minor is the residence of his parents or guardian.

8. In the case of families living in one school district, but sending children to school in another district, the children must be listed in the district in which the parents reside, and not in the district in which they attend school.

9. The residence of the parents or guardians determines the school district in which the children's names should be listed. In case the mother has one legal residence and the father another, the residence of the mother determines the residence of the children.

10. In the case of a family residing in good faith upon a homestead on the 10th day of April, for the purpose of proving up on the

same, the children of school age should be listed in the district in which the homestead is located, although the family may reside during the school months for the purpose of attending school in another school district. However, if the parents vote in the latter district, they are not residing upon the homestead in good faith, and in such case the children should be listed in the district where the parents vote.

Who excluded from.

11. A person of school age can not be enrolled in the school census of a district in which he does not reside, though his father is employed and boards in said district and claims his residence therein, when it appears that such person of school age has never actually been in said district and when he actually lives in a foreign country or state or when he is properly enrolled in any other school district in this state.

12. It would not be legal to enroll the persons of school age belonging to the State Industrial School in Jefferson county upon the census lists of the school districts where the schools are located, providing such persons have a residence elsewhere. The names of such persons would appear upon the census lists and would draw from the general school fund for the benefit of the districts in which is their true residence, and the state makes its own special provision for the education of such persons in the industrial schools.

No names added after list filed.

13. No name can be added to a census list after said list has been filed with the county superintendent.

STATE BOARD OF EDUCATION.

157. Who constitute state board.

The superintendent of public instruction, the secretary of state and attorney general, shall constitute a state board of education, of which the superintendent of public instruction shall be president. [M. A. S., 3965.]

NOTE—See Constitution, Article IX, section 1.

158. When board meets—by-laws.

The state board of education shall meet at the state capitol on the last Saturday in December in each year, and at such other times and places as may by them be deemed necessary, and shall have power to adopt any rules and regulations not inconsistent with law, for its own government, and for the government of the public schools. [M. A. S., 3966.]

159. Grant diplomas—effect.

The state board of education is hereby authorized to grant state diplomas to such teachers as may be found to possess the requisite scholarship and culture, and who may also exhibit satisfactory evidence of an exceptional moral character and whose eminent professional ability has been established by not less than two years' successful teaching in the public schools of this state. Such diplomas shall supersede the necessity of any and all other examinations of persons holding the same, by county, city, town, or district in the state, for the grade of work indicated, unless revoked by the state board of education. [3 Mills (Rev.), 3967.]

Experience required before taking state examination.

1. The two years' teaching experience in Colorado, required before an applicant may take the examination for a state certificate, has been interpreted to mean two full years' work in a graded school where the term is not less than nine months.

160. State diplomas.

State diplomas, which may be of different classes, not to exceed three in number, shall be granted upon public examination, of which due notice shall be given, in such branches and upon such terms and by such state board of examiners as the superintendent of public instruction, the president of the state uni-

versity, the president of the state agricultural college, the president of the state school of mines and the president of the state normal school may appoint; *Provided*. That the state superintendent of public instruction shall be a member of said board and the presiding officer thereof. The state board of education may also, upon the recommendation of the state board of examiners, grant state diplomas without examination, to persons who, in addition to good moral character and scholarly attainments, have rendered eminent services in the educational work of the state for a period of not less than six years. Such diplomas may be of different classes, not to exceed three in number, as may be prescribed by the state board of examiners. [3 Mills (Rev.), 3968.]

Certificates from other states.

1. State certificates issued by other states are not recognized by the law of Colorado. Persons who wish to teach in this state must hold certificates issued upon examination by the proper district, county or state authority.

161. Revoking diplomas.

The state board of education may at any time revoke a state diploma, upon satisfactory evidence that the holder thereof has become unworthy of the same; *Provided*, That, before revoking any such diploma, the holder thereof shall have at least thirty days' notice to appear before the state board, and refute any charges brought against him. [M. A. S., 3969.]

STATE BOARD OF LAND COMMISSIONERS.

162. State land board—composed of whom.

The governor, superintendent of public instruction, secretary of state and attorney general being constituted a state board of land commissioners by the constitution of this state, said board shall have direction and control of all lands belonging to the state, to manage the same as the best interests of the state shall require, not inconsistent with the provisions of this act and the constitution of the state. A majority of the board shall constitute a quorum for the transaction of business. [L. '05, page 319, section 1.]

STATE NORMAL SCHOOL.

163. Establishment of state normal school.

A state normal school is hereby established at or near the city of Greeley, in the county of Weld and state of Colorado, the purpose of which shall be instruction in the science and art of teaching, with the aid of a suitable practice department, and in such branches of knowledge as shall qualify teachers for their profession; *Provided*, That a donation shall be made of a site for said state normal school, consisting of forty acres of land with a building erected thereon, according to plans and specifications furnished by the state board of education, and to cost not less than twenty-five thousand dollars, ten thousand dollars of which shall be paid by the state, as hereinafter provided. [M. A. S., 4118.]

164. Trustees—corporate powers—seal—make by-laws.

Said school shall be under the control of a board of six trustees; the said board shall be and is hereby declared a body corporate by the name and style of "The Trustees of the State Normal School," and as such and by its said name may hold property for the use of said school, be party to all suits and contracts, and do all things thereto lawfully appertaining in like manner as municipal corporations of this state. The said trustees and their successors in office shall have perpetual succession, shall have a common seal, and may make by-laws and regulations for the well ordering and government of the said corporation and its business not repugnant to the constitution and laws of the state. [M. A. S., 4119.]

165. Governor appoint trustees—term of office—oath—superintendent of public instruction member.

The governor shall, upon the approval of this act, appoint by the advice and with the consent of the senate, the six trustees mentioned and provided in this act, two of whom shall be appointed for the term of two years, two for the term of four years and two for the term of six years. Their terms of office shall begin from their appointment and qualification, and shall continue for the period for which they shall be so appointed and until their successors are appointed and qualified. Every two years after the first appointment aforesaid, two trustees shall be appointed in like manner to succeed those whose terms are first thereafter to expire. Every trustee so appointed shall take and

subscribe the oath of office prescribed by the constitution of this state before entering upon the duties of his office, which oath shall be placed and kept on file in the office of the secretary of state. The superintendent of public instruction shall be, *ex officio*, a member of the board of trustees of the said state normal school. [M. A. S., 4120.]

166. Part of public school system—apportionment of funds—supervisory powers over.

Said normal school is hereby constituted an integral part of the public school system of this state, and shall stand upon the same basis as to apportionment of state school funds as union high schools, and shall be subject as such to the general supervisory powers vested by the constitution in the state board of education. [M. A. S., 4121.]

167. Powers of trustees.

Subject to the constitutional powers of the state board of education, the trustees of the state normal school shall have the general supervision of the state normal school, and the control and direction of its funds and the appropriations therefor. They shall have power to appoint a faculty, consisting of a principal and assistant principal, and such other professors as may be required therein; they may also appoint such assistant teachers as are found necessary. They shall also have power to remove said principal or assistant principal, or any professor, teacher or employe in or about said school, and to appoint or employ another or others instead; to fix the salaries of each and to prescribe their several duties. They shall, with the advice and consent of the faculty, prescribe the various books to be used in said school, the courses of study and instruction, which in no case shall cover a period of less than three years, and shall make all the needful rules, regulations and by-laws for the good government and management of the same. [M. A. S., 4122.]

168. Provide grounds—buildings—apparatus.

Said board of trustees shall also have power, and it shall be their duty from time to time, as means shall be provided and placed at their disposal, to provide suitable grounds and buildings, either by donation, purchase or lease, for the use of said school, and, in their discretion, shall also provide all proper and needful apparatus, books, articles and things for teaching and illustrating the branches of study authorized in said school. [M. A. S., 4123.]

169. Qualifications for admission—examination—declaration.

The said board of trustees shall prescribe the qualifications for admission of students to said normal school. Every appli-

cant for admission shall undergo an examination by the faculty of said school, and if it shall appear that such applicant is not a person of good moral character, or fails to pass such examination, such applicant shall be rejected. Each applicant, except as hereafter provided, shall, prior to his or her admission, also sign and file with the board of trustees a declaration to engage in the business of teaching in the public schools of this state. [M. A. S., 4124.]

170. **Open to residents of state—other persons—fees.**

The state normal school shall be open, subject to its regulations, to all persons resident in this state, sixteen years of age and upward, without charge for tuition; and to other persons under such regulations as the board of trustees may prescribe, upon payment of a rate of tuition to be fixed by said board, and without the aforesaid declaration of intention to teach in the public schools of this state, said board of trustees shall also fix the fees for admission of pupils to the practice department of said normal school. [M. A. S., 4125.]

171. **Officers of board—duties—bond.**

The board of trustees shall elect from among their number, at the first and every succeeding annual meeting of said board, a president, who shall preside at all meetings and perform such duties as are incumbent upon such office. The board shall also elect a secretary, who shall not be a member of the board, and who shall hold office for the term of one year, and until his successor shall be elected and qualified. The said secretary shall give bond in a sum to be fixed by the superintendent of public instruction for the faithful handling and true accounting and delivery of all moneys and property of said school coming to his hands or control, which bond shall be filed with the secretary of state, after approval of the sureties thereon by the said board of trustees. No secretary elected as aforesaid shall receive into his possession or control any money or property of said normal school until after he shall have executed his bond and the same shall have been approved and filed as aforesaid. The state treasurer shall be, *ex officio*, treasurer of the state normal school. [M. A. S., 4126.]

172. **Diplomas—examination—graduation.**

The state normal school is authorized to grant diplomas to such students as shall have completed the full course of instruction in said normal school, shall have been recommended by the faculty, and shall have passed a final examination upon the branches embraced in the prescribed course of study; such examination to be conducted by the examining board, consisting of the state superintendent of public instruction, a county superintendent of schools within the state, appointed for the pur-

pose by the governor, and the principal of said school. Such diploma, when signed by the members of said examining board and the president and secretary of the board of trustees, shall be evidence that the receiver thereof is a graduate of the state normal school, and entitled to all the honors and privileges of such graduates. [M. A. S., 4127.]

173. Diploma license to teach—license annulled.

The said diploma shall license the receiver thereof to teach in any of the public schools of this state when a certified copy thereof shall have been filed in the office of the county superintendent of schools in the county wherein such graduate is teaching or proposes to teach. Such license may be annulled by the state superintendent of public instruction, who shall give immediate notice thereof to the several county superintendents of the state, and such license may be suspended in any county by the superintendent of schools for such county, pending the action of the superintendent of public instruction. [M. A. S., 4128.]

Registration of normal school diploma.

1. The law requires that the state normal school diploma, held by one who is to teach in a certain county, shall be presented to the county superintendent for inspection and registration by him, and until this is done the teacher is not legally a teacher in the county, and therefore should not receive her salary until she has fully complied with the law.

174. No fee for diploma.

No fee shall be charged or received for any diploma or certificate authorized by this act. [M. A. S., 4129.]

No fee for registration.

1. No law authorizes a county superintendent to charge a fee for registering a certificate issued by the state normal school.

175. Compensation of trustees.

The trustees of said normal school shall be entitled to receive five dollars per day and their necessary traveling expenses, when actually employed in the performance of their duties as such trustees. [M. A. S., 4130.]

176. Board receive and hold money and property.

The board of trustees of the said normal school shall have power to receive, demand and hold for the uses and purposes of said school such money, lands or other property as may be donated or devised for or thereto, and to apply the same, within the powers conferred by law, in such manner, as shall best subserve the interests and objects of said normal school. [M. A. S., 4131.]

177. Funds and revenues apportioned.

The funds and revenues for the establishment and maintenance of said normal school, for the payment of its officers, teachers and employes, and for all purposes incident thereto or necessary for the proper founding, continuance and successful conduct thereof, shall be appropriated and apportioned in such manner as the general assembly shall by law provide. [M. A. S., 4132.]

178. Report of trustees—contents—verification.

The trustees of the state normal school shall make and file with the state board of education, on or before the first day of August in each year, a report of the affairs and conduct of said normal school during the year last preceding such report. Said annual report shall be made upon blanks prepared by the superintendent of public instruction, approved by the state board of education, and shall include the following, viz.:

First—The number of students enrolled during the preceding year, their sex, age, residence and place of birth.

Second—The attendance each day; the average attendance for each week and term, and during the year; the number of days the school was taught in the year.

Third—The full curriculum of instruction in said school; the classification and departments thereof; the branches taught; time devoted to each; text books and apparatus in use; number of books in the library; requirements for admission and graduation, with dates and requirements for examinations.

Fourth—The number of students in each department and class; number of diplomas granted, and to whom; number, names and residence of graduates; number of suspensions and expulsions, and cause of same.

Fifth—The names and number of teachers in each class and department, length of time each has been employed, and salary paid to each.

Sixth—Names, individual employment and number of all other employes in and about the school, with rate and amount of wages paid to each.

Seventh—A full financial statement, classified and itemized, of the business department of the school and corporation, covering receipts and expenditures from and by all sources, and in such form as to show the average cost of the school per month for each pupil, and in gross for the year; cash on hand or deficit at the beginning and end of year.

Eighth—An estimate of necessary expenditures, ordinary and special, for the next ensuing year.

Ninth—Such other particulars as the said board of education may require, necessary to a fair and complete showing and fair understanding of all the affairs of said normal school.

Said report shall be signed by the president and secretary of the said board of trustees, and verified by the oath of one or more of their number. [M. A. S., 4133.]

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

179. **Election of state superintendent.**

At the general election, to be held in the year of our Lord one thousand eight hundred and seventy-eight, and every two years thereafter, a state superintendent of public instruction shall be elected by the qualified electors of the state, who shall hold office for the term of two years from the second Tuesday of January next after his election, and until his successor is duly elected and qualified. [M. A. S., 3970.]

180. **Oath and bond of superintendent.**

Before entering upon his duties he shall take and subscribe the oath of office prescribed by the constitution, and shall also execute a bond in the penalty of five thousand dollars, payable to the state of Colorado, with sureties to be approved by the state auditor, conditioned upon the faithful discharge of his official duties, and the delivery to his successor of all books, papers, documents and other property belonging to the office. Said bonds and oath shall be deposited with the secretary of state. [M. A. S., 3971.]

181. **Duties of superintendent.**

He shall have an office at the seat of government, where shall be kept an official seal, and all books and papers appertaining to the business of his office. He shall file all papers, reports and public documents transmitted to him by the school officers of the several counties, each year separately, and hold the same in readiness to be exhibited to the governor, or to any committee of either house of the general assembly. Copies of all papers filed in his office, and his official acts, may be certified by him, and when so certified, shall be evidence equally and in like manner as the original papers. He shall decide all points touching the construction of the school laws, which may be submitted to him in writing by any school officer, teacher or other person in the state, and his decision shall be held to be correct and final until set aside by a court of competent jurisdiction, or by subsequent legislation; and said decisions, correspondence and instructions may be communicated through the columns of any regularly published periodical that is devoted to the interest of education. He shall prepare lists of questions for the use of county superintendents at the quarterly examination of teachers, and make such suggestions concerning their use as shall tend to se-

cure uniform examinations in the different counties; and he may call to his aid, in the preparation of said questions, such assistance as he may deem proper. [M. A. S., 3972.]

NOTE—In regard to books received for use of supreme court. M. A. S., 988.

No right to compel county superintendent to grant petition.

1. The county superintendent has the right to grant or not to grant a petition for the establishment of a new district, and the state superintendent has no right whatever to compel any county superintendent to grant such a petition if, in the county superintendent's judgment, it is not wise or desirable.

Take no part in organizing district.

2. It is not within the province of the state superintendent to take any part whatever in the organization of a new school district. He may, however, as a member of the state board of education, pass upon the legality of such organization when an appeal is taken to the board from the decisions of the county superintendent.

182. **Furnish blanks—cost—prepare laws.**

He shall have a general supervision of all the county superintendents, and of the public schools of the state. He shall prepare, have printed and furnished to teachers and all officers charged with the administration of the laws relating to public schools, such blank forms, registers and books as may be necessary to the discharge of their duties; but he shall not copyright such forms, nor be directly nor indirectly compensated by reason of the sale thereof. All registers and blank books so furnished for the use of teachers and school officers shall be charged to the respective counties at cost, and the county superintendent of schools shall receipt for and distribute the same among the districts of his county as they may require; and the amount so charged against each county shall be deducted from the amount apportioned to such county at the semi-annual apportionment of the state school fund; and the superintendent of public instruction shall certify to the state treasurer the aggregate amount of such deductions, and the treasurer shall thereupon transfer said amount from the school fund subject to apportionment to the general fund. The superintendent of public instruction shall have the laws relating to public schools printed in pamphlet form, and annexed thereto forms for making reports and conducting school business, and shall supply school officers, school libraries and state libraries with a copy each. Said printing to be paid for out of the printing fund, on warrant of the auditor, on bills approved by the superintendent of public instruction, and attested by the secretary of state. [M. A. S., 3973.]

NOTE—See Enabling Act, section XIV.

Term reports furnished by counties.

1. All monthly and term reports provided for in the course of study must be furnished by the respective counties.

No power to remove members of district boards.

2. The state superintendent has no power to remove members of district boards. The only manner in which a school director can be removed is by action in the courts upon suit brought by electors of the district, and in such a case absolute violation of the law in connection with his duties as school director must be proven to accomplish the removal.

No authority to grant certificate.

3. The state superintendent has no authority to grant a certificate to teach except when directed to do so by a vote of the state board of education in cases of appeal and of state examination.

Can not compel county superintendent to hold special examination.

4. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county. This is a mere matter of comity, and is not sanctioned by law. Therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue a certificate thereon, the board of education has no other course than to dismiss the appeal.

Can not authorize county superintendent to hold special examinations.

5. The laws of Colorado do not give the state superintendent the right to authorize the county superintendent to hold a special examination. Examinations for teacher's certificate can not be taken at any time except at those times prescribed by law for public examinations.

Receive papers from county superintendent.

6. When an applicant of lawful age presents himself for the county examination, the county superintendent has no course other than to receive and grade the papers and report the same to the superintendent of public instruction. A county superintendent can not legally withhold a certificate at the request of a person who, as a lawful applicant, appears at the examination.

Powers in regard to certificates.

7. The state superintendent has no right to endorse certificates; that is a matter which rests with the county superintendent.

8. The state superintendent has no authority whatever to waive in any manner the requirement for the issuing a certificate to teach, nor to order a county superintendent to change the marking, unless the applicant appeals from the decision of the county superintendent to the state board of education.

9. The state superintendent has no authority whatever to waive in any manner the requirements of law for a license to teach, nor to grant a temporary certificate or permit, nor to authorize a county superintendent to grant such certificate or permit.

10. The laws of Colorado do not give the state superintendent the right to endorse certificates of any kind from other states.

11. The law makes no provision for the writing of a duplicate certificate for the convenience of the person holding a first grade certificate. Special permission may be obtained from the state superintendent by a county superintendent to write a duplicate certificate in case the holder of the original gives proof of its being lost or destroyed.

Can not excuse from examination.

12. The state superintendent has no authority to excuse a person from taking an examination.

183. **Biennial report—visits—expenses.**

He shall, on or before the tenth day of December, in every year preceding that in which shall be held a regular session of the general assembly, report to the governor the condition of the public schools, the amount of state school fund apportioned, and sources from which derived, with suggestions and recommendations relating to the affairs of his office as he may think proper to communicate. It shall be his duty to visit annually such counties in the state as most need his personal attendance, and all counties, if practicable, for the purpose of inspecting the schools, awakening and guiding public sentiment in relation to the practical interests of education, and diffusing as widely as possible, by public addresses and personal communication with school teachers and parents, a knowledge of existing defects and of desirable improvements in the government and instruction of the schools; and he shall open such correspondence as may enable him to obtain all necessary information relating to the system of public schools in other states; and he shall receive out of the state treasury, for actual necessary traveling expenses and other expenses while traveling on the business of the department, not exceeding five hundred dollars per annum, for which he shall render an itemized bill to the auditor of state, who is hereby authorized to draw his warrant therefor; and all office, fuel, furniture, postage, books, stationery, and other contingent expenses pertaining to his office shall be furnished in the same manner as those of the other departments of the state government. [M. A. S., 3974.]

184. **Apportionment of school fund.**

It shall be the duty of the state auditor to notify the superintendent of public instruction of the amount of money in the state treasury to the credit of the public school income fund, on the thirtieth day of June and December in each year. Within fifteen days after receiving such notification, the superintendent of public instruction shall apportion said fund among the several counties of the state, from which reports have been received by said superintendent, as provided in this act, in proportion to the school population as shown by the report of each county for the year next preceding such apportionment, making such deductions as are provided in section nine of said chapter. And the superintendent of public instruction shall certify said apportionment to the state auditor, and upon such certificate the auditor shall draw his warrant on the state treasurer in favor of the county treasurer of each county, for the amount due said county. The superintendent shall also certify to the superintendent of each county the amount apportioned to such county. [M. A. S., 3975.]

NOTE—Section 9 referred to in this section is section 182.

Two apportionments.

1. There are only two apportionments of the school fund by the state superintendent during the year, one in January and one in July. Other apportionments, if any, are made by the county superintendents.

185. **Assistant librarian—salary.**

He may employ an assistant librarian, who shall have charge of the state library, under such regulations as may be prescribed by the state librarian, or by law. Said assistant shall receive the annual salary of one thousand dollars (\$1,000) for his services. [M. A. S., 3976.]

TAXES.

COUNTY SCHOOL TAXES.

186. County commissioners shall cause school tax to be levied.

The county commissioners shall, at the time of levying the tax for county purposes, cause to be levied a tax for the support of the schools within the county, of not less than two (2) mills on the dollar, of the assessed value of all taxable property, real and personal, within the county, which tax shall be collected by the county treasurer at the same time, and in the same manner, as state and county taxes are collected, except that it shall be receivable only in cash. It is hereby made the duty of the county superintendent of schools to certify to the board of county commissioners at this time the amount of money needed per capita, to enable each school district in the county to maintain a public school four (4) months in each year, as required by law. In making his estimate, the county superintendent shall not take into consideration districts whose school population shall be less than fifteen (15), as shown by the school census preceding the time of making the levy. He shall use as a basis for making his estimate the sum of forty (40) dollars per month for the teacher's salary. All other expenses of the school must be provided for by the board of directors by special tax. It is hereby made the duty of the county commissioners to increase the minimum rate of two (2) mills, to what shall be required for the purpose, as stated as above; *Provided*, That such tax levy shall in no case exceed five (5) mills; *Provided, further*, If any school district shall fail to certify a special tax for other expenses of the district necessary to maintaining a public school each year, as provided for in section seventy-seven, the county commissioners shall cause the same to be levied. [3 Mills (Rev.), 4028.]

NOTE—Limit of levy, section 192.

NOTE—Section 77 above referred to is section 154 herein.

Apportionment of two mill levy.

1. The above section contemplates that the two mill tax therein provided shall be apportioned among the school districts per capita. The \$40 per month therein provided is established as a basis in estimating the teachers' salaries.

Duties of county commissioners in regard to levy.

2. It is the duty of the board of county commissioners to levy such a rate above two mills as may be necessary to produce the amount needed per capita to enable each school district in the county to maintain a public school four months in each year, as required by law, and as

shown by the county superintendent's certificate provided for in the same section. The board of commissioners can be compelled to do this by mandamus if necessary.

3. The county commissioners have no right whatever to make a general levy of one mill, since the law plainly states that the minimum rate is two mills, which must be increased by the commissioners to whatever shall be required for the purpose as specified to them by the county superintendent of schools.

4. The above section is clearly in conflict with the act of 1899. (See section 192.) And it is clear that so much of said section as conflicts with the latter act is expressly repealed, and that county commissioners are limited only by their discretion in making levies for school purposes since April 8, 1899, that being the date on which the act took effect. The minimum amount of two mills is, however, not changed.

Legal custodian.

5. The county treasurer is the only legal custodian of the school funds. The district treasurer has no legal right to hold in his possession any of the general, special or bond fund, nor have the directors of a school district any legal right to issue orders on the county treasurer, except in favor of those parties to whom the district is legally indebted. In the payment of school bonds, the district treasurer has control of the funds only during the times of advertising and subsequent payment.

Special fund—how used.

6. Bonds can not be voted for sinking an artesian well; but if the district has sufficient money in its special fund, it may use that money for such a purpose on a vote of the electors.

7. If any surplus funds remain in the special fund over what is necessary to meet the regular current expenses of the district, such surplus may be used to pay past indebtedness.

8. In regard to the method of raising money to build a school building, the law prohibits the issuing of warrants in excess of the revenues of the district for the current year; therefore an arrangement for issuing warrants payable in one, two and three years, the qualified voters to vote a levy to be collected in one, two and three years to pay the warrants, would not be legal. The voters have no authority to vote a levy except for the current year. It would, therefore, only be possible to raise the money by voting bonds for the amount if the electors do not wish to levy the whole tax in one year.

9. The law does not give the school board the right, without the consent of the electors, to furnish board from the special fund for pupils who live too far away to attend.

10. If any surplus funds remain in the special fund over what is necessary to meet the regular current expenses of the district, such surplus may be used to pay past indebtedness.

Funds of first class districts.

11. Funds of first class districts must remain in the hands of the county treasurer and be drawn upon through warrants made out by the district board, as in districts of the third class. The law makes no provision for the handling of the funds.

Commissioners—no authority to change levies—when certified.

12. The county commissioners have no authority whatever to change levies for special school tax when certified to by the directors of a district. The levies as certified by the school directors must remain, whatever the action of the commissioners may be as regards valuation.

Tax not voted—county commissioners levy when.

13. In case a school district has not held its annual meeting to elect officers and vote a tax, it becomes the duty of the county superintendent to appoint to the vacant positions, and the duty of the county commissioners to levy the tax for the district.

Directors not exercise powers of electors.

14. Directors can not exercise the powers given electors of districts of the third class, after filing annual census of 350 children previous to the annual election. The board will reorganize after the annual election and after the census list is examined, compared as required of the county superintendent in section 186 of the school law, and is found to be correct in giving the district the necessary number for a second class district.

New levy on consolidation—when.

15. If districts are consolidated between the time of voting on the special tax and making the levy by the county commissioners, a new levy must be determined on for the new district.

Warrants drawn—when.

16. After a levy is made for a special purpose in a school district, and is also made by the county commissioners, warrants may be drawn to the amount of the revenue for the current year.

Special tax—when voted.

17. It would be legal to vote a special tax at an annual meeting by giving the legal notice; *Provided*, That such special tax, together with any other special taxes levied for the given year, does not exceed the levy allowed to a district of your class.

187. County clerk must levy—officer failing—forfeiture.

No county clerk or other person, who shall make out the tax list or assessment roll of any county, shall omit or neglect to levy said tax of two (2) mills, as aforesaid, by reason of the omission of the board of county commissioners to pass a resolution for that purpose. Failure to levy a tax of at least two (2) mills, as above specified, shall be deemed a violation of the law, and the person or persons through whose neglect or refusal the failure so to levy shall occur, shall forfeit the sum of one hundred (100) dollars each, and be liable for all damages resulting from such neglect or failure. [M. A. S., 4029.]

188. School boards shall certify to commissioners tax to be levied—limit—duties of assessor and treasurer—proviso.

On or before the day designated by law for the commissioners of each county to levy the requisite taxes for the then ensuing year, the school board in each district shall certify to the county commissioners the number of mills per dollar which it is necessary to levy on the taxable property of the district, to raise a special fund for any of the purposes specified in section fifty-one of this chapter, and the county commissioners shall cause the same to be levied at the same time that other taxes are levied,

and the amount of such special tax which shall be assessed to each taxpayer of such district, shall be placed in a separate column of the tax book, which shall be headed "special school tax;" *Provided*, That a school board of a district of the third class shall not certify, as above, to a higher rate than fifteen mills per dollar. There shall also be a column in said tax book in which shall be designated the number of the school district in which the property is listed. This tax shall be collected in cash only, and placed to the credit of the proper district as fast as collected, and the amount placed to the credit of each district shall be reported to the secretary of such district at the end of every month, and shall be subject to the order of the district board. It is hereby made the duty of the county assessor and county treasurer to so arrange their tax schedules and books as to conform to the above provisions; *Provided*, That the county assessor shall list all property, both real and personal, in the school district in which the same may be on the first day of May; *And, provided, further*, That the board of any district may order the levy of not to exceed one-tenth of one mill, the proceeds of which shall be used exclusively in the purchase of books for a library, to be open to the public, under such rules as the district board may deem needful for the proper care of the said library.

[M. A. S., 4032.]

NOTE—Limit of levy, section 192.

NOTE—Section 51 above referred to is section 81 herein.

Certify special fifteen-mill limit.

1. A district board of the third class can legally certify a special tax to the board of county commissioners without a vote of the electors of the district, provided the tax thus certified is not in excess of the amount necessary to support a four months' school.

2. After a district has voted a special tax, and such tax has been certified to the county commissioners by the directors, it can not be reconsidered or amended, nor can the board of directors make a new levy; but it may be reconsidered if the certificate has not been filed.

3. If the directors fail to certify the amount of the special tax levy the county commissioners may make a levy sufficient to maintain a four months' school, the tax in no case to exceed fifteen mills.

4. The fifteen-mill limit of special taxation applies only to third class districts.

5. In case an assessor should alter a levy certified by a district school board, he is liable civilly and criminally.

6. The directors of a third class school district have a legal right to certify a special tax sufficient to support a four months' school to the county commissioners in case the electors neglect to fix the levy. Such a tax must not exceed fifteen mills on the dollar, and if a vote of the electors has been taken in a district, then the directors must certify the amount voted by the electors.

7. This section, school law, authorizes the school board (of first and second class districts) to certify for a special school fund without instructions from the electors so to do.

School funds not used for singing school.

8. The school funds can not be legally used for defraying the expenses of a singing school.

Levy for libraries.

9. The county high school district has the right to levy a one-tenth mill tax for library purposes, just as any other district has.

10. Funds raised in accordance with the provisions of this section of the school law must be used solely for the purchase of books for a library which shall be entirely under the control of the school board; and while the section states that the library shall be open to the public, it is my opinion that the law does not contemplate the location of the library anywhere but in connection with the school.

Constitutional prohibitions.

11. The Constitution of Colorado prohibits the creation of a debt by loan for building purposes in any other way than by a vote of the electors. While a certificate of indebtedness can not be considered a loan, strictly speaking, the courts would probably construe it to be prohibited by the same constitutional provision when issued to cover a debt incurred by building.

Special levy in first and second class districts.

12. There is no limit to the special levy in first and second class districts.

Special taxes collected on range stock—when.

13. It is lawful to collect special school taxes on range stock in districts where they are located.

Can not change school tax of resident.

14. The law gives no authority to change the school tax of a resident of one district to another district.

New levy upon consolidation.

15. If districts are consolidated between the time of voting on the special tax and making the levy by the county commissioners, a new levy must be determined on for the new district.

When warrants drawn.

16. After a levy is made for a special purpose in a school district, and is also made by the county commissioners, warrants may be drawn to the amount of the revenue for the current year.

Basis of estimating maximum of bonds.

17. In estimating a maximum amount of bonds that can be issued by a school district, the estimate must be based upon the last complete assessed valuation.

SPECIAL TAX.**189. Special tax levy not to be reconsidered.**

It shall not be lawful for a district or a district board to reconsider the question of the levy of a special tax after the same has been certified to the county commissioners, nor shall said commissioners be charged with any discretion in the matter of such levy further than to ascertain if the law has been obeyed. [M. A. S., 4035.]

Levy can not be changed.

1. The board of county commissioners has no authority to change a special tax levy certified by the board of directors.
2. A district board can not raise a tax levy decided upon by the electors of the school district after it has been certified to the county clerk. The board of commissioners can not raise this levy if the requirements of the law have been complied with so far as the amount is concerned.
3. The directors can not change a levy made by the electors of a district, even though it may be insufficient to carry on the regular term of school in the district.
4. When a levy has been made by electors, it is not in the power of the school board to raise the levy made after the same has been certified to the county commissioners. This applies to a third class district. If it is a second class district, the right to make the levy rests entirely with the school board.
5. While the law does not permit the changing of a tax levy made at the annual meeting in May and certified to by the school board of the district, the district would have a right to call a special meeting to vote an additional special tax of two or any other number of mills that would be inside the limit up to which a third class district is permitted to levy. This is not in any way to be considered changing the original levy, but simply voting an additional levy.

6. If districts are consolidated between the time of voting on the special tax and making the levy by the county commissioners, a new levy must be determined on for the new district.

LIMIT OF TAXATION.**190. Classes of counties for limiting tax levy.**

For the purpose of limiting the amount of the tax levies for county purposes, as hereinafter provided, the several counties in this state are hereby classified into ten classes, to be known as the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth classes. [3 Mills (Rev.), 799d¹.]

191. Classification of counties.

The county of Arapahoe shall belong to and constitute the first class; the counties of Weld, El Paso and Pueblo shall belong to and constitute the second class; the counties of Boulder, Fremont and Las Animas shall belong to and constitute the third class; the counties of Elbert, Hinsdale and Larimer shall belong to and constitute the fourth class; the counties of Chaffee, Clear Creek, Douglas, Jefferson, Lincoln, Rio Grande and Saguache shall belong to and constitute the fifth class; the counties of Cheyenne, Delta, Kiowa, Kit Carson, La Plata, Morgan, Otero and Prowers shall belong to and constitute the sixth class; the counties of Costilla, Conejos, Custer, Dolores, Garfield, Gilpin, Gunnison, Eagle, Huerfano, Logan, Mesa, Montezuma, Montrose, Routt, Rio Blanco, Summit, Teller, Washington and Yuma shall belong to and constitute the seventh class; the counties of Baca, Bent, Lake, Ouray, Park, Pitkin, San Juan, San Miguel and Sedg-

wick shall belong to and constitute the eighth class; the counties of Archuleta, Grand and Phillips shall belong to and constitute the ninth class; and the county of Mineral shall belong to and constitute the tenth class. [3 Mills (Rev.), 799d $\frac{1}{4}$.]

192. **Limit of levy.**

There shall be levied and assessed upon all taxable property, both real and personal, within the several counties of this state the following taxes: For ordinary county revenue, including the support of the poor and for the purpose of raising a fund to meet any unforeseen contingencies, such rate as may be necessary, not to exceed three mills on each dollar of valuation in counties of the first class; not to exceed six mills on each dollar of valuation in counties of the second class; not to exceed seven and one-half mills on each dollar of valuation in counties of the third class; not to exceed eight and one-half mills on each dollar of valuation in counties of the fourth class; not to exceed ten and one-half mills on each dollar of valuation in counties of the fifth class; not to exceed twelve mills on each dollar of valuation in counties of the sixth class; not to exceed fifteen mills on each dollar of valuation in counties of the seventh class; not to exceed sixteen mills on each dollar of valuation in counties of the eighth class; not to exceed twenty mills on each dollar of valuation in counties of the ninth class; not to exceed twenty-five mills on each dollar of valuation in counties of the tenth class; *Provided*, That any county may levy such rate as it may see fit for the erection, maintaining, repairing, leasing or renting of county buildings, for roads and bridges, bonds and interest thereon, or judgment bonds and interest thereon and for school purposes. [3 Mills (Rev.), 799d $\frac{1}{4}$.]

TEACHERS.

193. Must have license—expiration—proviso.

No district board shall employ any person to teach in any of the public schools of the state, unless such person shall have a license to teach, issued from the proper district, county or state authority, and in full force at the date of employment; and any teacher who shall commence teaching in any such school without such license, shall forfeit all claim to compensation out of the school fund for the term so teaching without such license. And if a teacher's license shall expire by its own limitation within a term of employment, such expiration shall not have the effect to stop the school, or stop the teacher's pay; *Provided*, That a teacher whose certificate so expires, if the term of school for which such teacher is employed extends more than one month after such expiration, shall secure a new certificate, or a renewal of the one held while the same is in force; *And, provided, further*, That a certificate shall not be required of persons employed to teach either music, drawing or modern languages only. No teacher shall be dismissed without good cause shown, and such teacher shall be entitled to receive pay for services rendered. [M. A. S., 4024.]

NOTE—Kindergarten teachers, section 147.

License—qualifications.

1. The law provides that an applicant for a teacher's certificate must not be less than eighteen years of age. It would be illegal to grant a certificate if the applicant did not meet that requirement. It would also be illegal to employ a teacher without the necessary license issued by the proper authorities.

2. A person can not be legally employed to teach in the public schools for any length of time, however short, unless such person has a certificate to teach, issued by the proper authorities.

3. An unlicensed person can not legally be employed as substitute teacher in the public schools of this state. A substitute teacher must be provided with the proper certificate.

4. It is held that a teacher may continue school until notice is given of the failure to obtain a certificate.

5. A teacher holding a certificate to teach, issued by the proper authority, is entitled to all the rights and emoluments implied thereby until certificate is revoked for cause.

6. The engagement to teach of a person who has no certificate by school directors is illegal, as no contract could be made between the school board and such a person. The fact that she draws no pay would not entitle her legally to teach the school. A school so taught could not be considered a public school, nor could the months of school so taught be counted in, or reported as, months of public school work. School directors could only as private citizens employ a teacher to teach a pri-

vate school. There is no possible way in which the public school work and the private school work can be combined, or the private school work legalized as public school work, or a private school teacher, uncertificated, in any way be considered as a public school teacher.

Contracts.

7. Two members of the school board in districts of the second and third classes can make a legal contract without the consent of the third member; *Providing*, Such contract is made at a regular meeting, or at a special meeting legally called, and of which all the directors had legal notice.

8. If two districts are united according to law and a teacher holds a contract made previous to the union to teach a coming term of school in one of the districts, the newly formed district is not required to carry out that contract, since the district, as originally established, has ceased to exist, being now simply a part of another district; therefore, the contract by its board of directors has become null and void.

9. When a teacher begins work without having entered into a definite verbal or written contract with the school board which employs her, she has a right to leave the school at any time, and the school board has the right to discharge her at the end of the first month's work, and also to employ another teacher.

10. A school board can hold a teacher to a contract for the time therein agreed.

11. In case of two members of the board at a legally held meeting of the board voting a certain sum as the teacher's salary, written notice of such action being sent to the teacher, the notice is binding upon the board and equal to a contract.

12. If a school board makes a legal contract either verbal or in writing with a teacher, providing for his re-election and specifying the salary he is to receive, the board could not at a later meeting change its action without cause.

13. An oral contract made between a teacher and a school board is as binding as a written one; *Provided*, That each party can prove the terms of the contract.

14. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to compensation for the full time.

15. The board of directors has exclusive jurisdiction in the employing and discharging of teachers.

16. A contract between a teacher and his substitute is not binding upon the board of directors.

17. A contract to teach made by two directors in a second or third class district with the proposed teacher is valid, and the person so engaged can collect the amount named in the contract as compensation for his services, if he performs such services in accordance with the terms of the contract.

18. If a teacher is not competent to conduct a school, the school board is not bound by the contract.

19. When a contract is reduced to writing, it is supposed to express the intention of the parties, and when such intention is clear, it can not be changed by oral evidence.

20. Since there was no written or verbal contract in regard to the length of your school term, you can not compel the board to continue the school for any stated time. The school board has the full power to decide what the term of school shall be.

21. The directors of a district have no legal right to make a contract with a teacher to pay wages in excess of the revenues for the year.

22. If a teacher receives from the secretary of a school board, in pursuance of an order of the board, a letter notifying him of the length-

of term and salary, such notification would stand in law as a contract should the teacher accept.

23. A verbal promise given to a teacher by members of a school board at other than a regularly called meeting is not in any way binding upon the board. The members have a perfect right to engage some other person when a regular meeting of the board is held.

24. When a teacher enters into a contract with a board of directors to teach a certain number of months it is understood that customary vacations may be held, even though not specified in the contract, and that the teacher will not receive compensation for the time occupied by said vacations, he being expected to teach the the full number of months specified in the contract, aside from the time included in the vacations.

25. A contract made with the president and treasurer of a school board would be legal. even if there is a vacancy in the office of secretary. A warrant signed by the above named members, under the circumstances mentioned, should be a legal and sufficient warrant for recognition by the county treasurer.

No compensation without license.

26. It would be illegal for a school board to pay the teacher, unless she was provided with a certificate issued in the county, or with certificate recognized in some way by the county superintendent.

27. Any elector of the district or the county superintendent of the county, through legal process, may prevent the board from paying out money as wages to a teacher when she does not possess the necessary license.

28. It is a violation of the law to endorse county teachers' certificates issued in this or any other state, if the certificate be not in full force at the date of such endorsement. Should the board employ a teacher without a license to teach, all claim to compensation on the school fund for the term will be forfeited.

29. If a school board employs teachers who do not hold legal certificates, such board is liable for the teachers' salaries, since it is a direct violation of the law to pay such teachers from the public funds.

30. It would be illegal for the school board to pay the teachers unless they are provided with certificates issued in the county or with certificates recognized in some way by the county superintendent. Any elector of the district or the county superintendent can, through legal process, prevent the board from paying out money as wages to teachers without the necessary certificates.

Salary.

31. The only way by which a teacher's salary can be legally increased, during the term for which she is employed, would be at a regular or special meeting of the school board.

32. A teacher's only recourse against a school board that refuses to issue a warrant for salary is through the courts.

33. A teacher is under no obligation to make up time lost when school is closed for the purpose of repairing buildings. If a teacher absents himself a day or more from his work, he himself being responsible for the loss of time, he must make good the loss of time or forfeit his pay.

34. A school board can not compel a teacher to make up time lost during the time a school was closed because of the prevalence of a contagious disease; *Provided*, Said teacher holds himself in readiness to teach, subject to the order of the board.

35. A teacher can draw her wages during the time that a school is closed on account of an epidemic.

36. A teacher is not entitled to receive pay for the time lost while attending a teacher's examination.

37. If the directors authorize the use of the school house for election purposes, the teacher is entitled to pay for time thereby lost.

38. If a teacher is ready to begin school at the time specified in his engagement, and owing to neglect of duty on the part of the school board, can not do so, he is not compelled to make up the time thus lost, but is entitled to his salary from the time specified in such engagement.

39. If, with the consent of the directors a teacher holds school on a legal holiday to make up for a day lost, the teacher is entitled to pay for the full month.

40. There is no law authorizing a teacher to draw his salary for two weeks spent in attending the normal institute.

41. The board of directors has no right to deduct from a teacher's salary for legal holidays occurring during the school term.

42. If the board of directors closes the term of school before the expiration of the time contracted for, the teacher being ready to fulfill his part of the contract, the board is liable for the teacher's salary for the full term agreed upon.

43. A teacher may collect salary to the amount of actual damage suffered by the failure of the board of directors to fulfill its part of the contract.

44. A teacher may collect salary for the number of months specified in the contract entered into with the board of directors of the school district where he teaches; *Provided*, The directors have not contracted with the teacher to pay wages in excess of the revenues for the year.

45. Under a written contract with a school board to teach a stated length of time, a teacher is entitled to compensation for the full time, although the school should lapse by reason of the residents leaving the district; *Provided*, The teacher has fulfilled her part of the contract and expresses her willingness to complete the requirements of her agreement. The school board should have taken into consideration the possibility of such an event at the time the contract was made.

46. To be entitled to his salary for the day, the teacher should remain in the school room after the hour of opening, both forenoon and afternoon, a sufficient time to determine that no pupils will be in attendance.

47. A teacher, having accepted a stipulated salary, can receive that salary only by warrants drawn by the district secretary, and takes them for what they are worth. It would not be proper for the board to simply supplement, by an additional warrant, the shrinkage of irregular warrants on account of the discount in the market. The deficit may be made good by the board, at a regular meeting, voting to advance the salary so as to cover the shrinkage in value of the depreciated warrants.

48. When school district warrants are sold at a bank or elsewhere and a discount is charged, the holder of the warrant must bear the loss.

49. Where a county superintendent calls a county institute or teachers' association, he has not the right to rule that the district must pay the teacher for the same, as if she had taught school, although the school boards would have the right to give the teacher such a day and pay her for it upon the request of the county superintendent. The right in the matter rests with the district board.

Employment.

50. Since the law gives the board the right to employ and discharge teachers and to fix and order paid their wages, the electors of the district could have no voice in the matter, and while the patrons of the school would have a right to circulate a petition requesting the board

to engage a certain teacher, the board would have the right to ignore the petition if they desired to do so.

51. It is absolutely illegal for the members of a school board to appoint a teacher at any time or in any way save through the action of a majority of the board at a regularly called meeting of which all the members have had due notice.

52. A school board has the absolute right to engage the teacher, or teachers, for the school district. The fact that a majority of the taxpayers sign a petition making a protest against the selection made by the board can not in any way affect the legal right or the action of the board in the matter of the appointment of a teacher.

53. One member of a school board can not legally employ a teacher except when ordered to do so by board or at a regular or special meeting.

54. If a misunderstanding occurs as to the employment of a teacher and two of the board refuse to enter into a contract with the teacher who was chosen by the other member, the teacher could not legally claim her appointment.

55. In case a summer school is to begin in a district, either before or on the day upon which the annual election is held, it would be legal for a board to engage a teacher for such a school.

56. It is illegal to employ a school teacher save at a regularly called meeting, of which due notice was given to every member of the board. It is also illegal to transact any business save at such duly called meetings.

Special subjects required.

57. A school board would have the right to require work above the eighth grade to be done, providing there was nothing in the contract made with the teacher which would give her the right to object to doing such work.

58. The law makes the same requirements of the principal or teachers of a county high school as of any school of high grade. Therefore, a special certificate covering the high school branches must be obtained by the applicant who expects to teach in a county high school.

59. It is the duty of the teacher to teach whatever branches may be specified by the school board, since that body is given the right to establish a course of study for the school of its district. If the teacher has failed to teach the branches requested by the board, it would probably not be sufficient reason for the board's refusing to sign the warrant for her services as teacher for the time she has been employed in the school, yet it is possible that it might be held as sufficient grounds for the dismissal of said teacher.

60. School boards have authority to employ special teachers for special branches, but such teachers must have valid certificates in order to entitle them to be paid from the school funds, even though such teaching is done outside of regular school hours.

61. If a teacher has been employed to teach a certain department of a school, the school board would not have the right to close another department and require one teacher to do the work of both departments, unless such an arrangement had been made in the contract entered into between the teacher and the board.

62. A teacher can not be required to teach instrumental music in a school, as the branch is not one included in the requirements of a common school course.

Dismissal.

63. A school board may dismiss a teacher for incompetency or immorality. A county superintendent may revoke a certificate of any kind at any time for immorality, incompetency or any just cause.

64. The laws of this state make it impossible for a school board to discharge a teacher without some cause that would be considered in the court a sufficient reason for breaking the contract between the teacher and the school board. Incompetency, immorality, drunkenness, etc., are the reasons that have been held sufficient.

65. A teacher can not be legally dismissed before the expiration of the time for which she is engaged "without good cause shown," and if so dismissed she can collect full salary; *Provided*, She holds herself in readiness to fulfill her part of the contract.

66. Two members of a school board have the right to dismiss a teacher, providing their action is taken at a regular or special meeting of which all members of the board have notice. But a teacher having a contract with the board can not be dismissed without good cause for such action being shown.

67. A teacher can not be legally dismissed before the expiration of the time for which he is engaged, without good cause shown, unless there is a clause in the contract making provision for such contingency.

68. Section 193, school laws of Colorado, contains the following statement as the closing sentence.

"No teacher shall be dismissed without cause shown, and such teacher shall be entitled to receive pay for services rendered. At the top of page 80, Seventh Biennial Report of the superintendent of public instruction, an official decision states 'that a teacher can not be legally dismissed before the expiration of the time for which she is engaged, without good cause shown,' and if so dismissed she can collect full salary, provided she holds herself in readiness to fulfill her part of the contract." The following is the decision of the Supreme Court of Michigan (April 30, 1880) in the case of Dewey vs. Union School District: "If the school board closes the school during the term because of the prevalence of a contagious disease, the teacher does not lose his pay, unless he consents to lose it, provided he holds himself in readiness to teach subject to the order of the board. There may be a condition of things which makes it eminently expedient and prudent to stop the schools, but no rule of justice will entitle the district to visit its misfortune upon the teacher who had no agency in bringing it about." (Dewey vs. District, 43 Michigan, 480.) It will thus be seen that the official decision of this department contained in the Seventh Biennial Report is sustained by the highest judicial authority in the state of Michigan.

69. The school board has in its power to dismiss a teacher for incompetency or immorality. But according to section 193, last clause, school law of Colorado: "No teacher shall be dismissed without good cause shown, and such teacher shall be entitled to receive pay for services rendered." In order to make good charges of immorality specific acts must be declared and supported by affidavits of witnesses. The possession of a proper certificate of qualification is *prima facie* evidence of competency and fitness. The law provides that a county superintendent "may revoke certificate of any grade at any time for immorality, incompetency or any other just cause." If satisfied that the charges can be sustained by proof, the proper course for the board is to bring the matter to the attention of the county superintendent, with a request that he make use of the power granted him by the law.

70. A certificate to teach can not be revoked by a county superintendent without having good and sufficient reasons for so doing. Alleged exorbitant wages named in a contract between him and the directors of a district would not be lawful reason for revoking a certificate, unless fraud of some kind could be shown.

71. If a teacher employed in the schools is incompetent to give instruction in any of the subjects provided in the course of study for that district, the board of directors would have cause for discharging such teacher.

72. In order to make good charges of immorality or incompetency, specific acts must be declared and supported by affidavits or witnesses. If satisfied that the charges can be sustained by proof of the proper course for the board is to bring the matter to the attention of the county superintendent, with the request that he use the power granted him by law.

Expiration of certificate.

73. A teacher can not legally teach two months after her certificate has expired. In case of the employment of a teacher under such conditions, any elector could make legal objection to her receiving payment from the school funds, and a school board responsible for the payment of her wages under such conditions would be liable for the amount of the wages.

74. It is not legal for a school board to engage a teacher who has no certificate, or whose certificate has expired, permitting her to open a school, except under the provisions of the law permitting a teacher to teach one month after the expiration of her certificate. The school board is personally liable for her wages under such circumstances.

75. "Permission to teach one month after the expiration of certificate" is for the purpose of providing against closing the school in case of the failure of the teacher to obtain certificate at the last county examination.

Certificate—endorsement of.

76. The time for which an endorsed certificate is good is simply that specified by the endorsement. Section 193 applies to such cases, excepting that the teacher does not have the right to take advantage of the one month provision.

Authority over pupils.

77. Respecting the jurisdiction of teachers over pupils on their way to and from school, it has been recognized that the authority over pupils is joint and equal with that of the parent. However, authority over pupils when not on the school premises should be confined to protecting and promoting the welfare of the school. The teacher should seek the co-operation of the parent, if possible, in the government of a child to and from school, for the sake of avoiding unnecessary friction.

Pupils—admittance to grade.

78. A school board has the right to make the regulations concerning the admittance of pupils to a certain grade of the school when the fall term commences, said pupils having failed to pass the examination given in the spring, and also to authorize the principal to make such rules and regulations and to enforce them as if made by the board as a body.

Janitor work not required of teacher.

79. A teacher is not required to do janitor work in this state unless the contract into which he has entered with the district board distinctly states that such shall be the case.

Married women may teach.

80. While the law does not state that married women living with their husbands shall be allowed to teach, there is no law prohibiting any person eighteen years of age, who can obtain a certificate, from teaching, save when a member of the school board.

Relatives of directors may teach.

81. The laws of Colorado do not make it illegal for members of school boards to vote for relatives of any degree as teachers.

82. The fact that a parent is a director upon the school board would not prevent a daughter who has a legally issued certificate from being eligible to a position as teacher in the district.

Husband and wife teach in same school.

83. The laws of Colorado do not in any way prohibit a husband and wife from teaching in the same school.

194. **Teachers to keep register—statistics—blanks.**

It shall be the duty of the teacher of every public school in this state to keep, in a neat and businesslike manner, a daily register in such form and upon such blanks as shall be prepared by the superintendent of public instruction. At the close of each term of school, not to exceed four months, the teacher shall file the summary in such register, and, in ungraded schools, file the register with the secretary of the district, who shall preserve the same; in graded schools the register aforesaid shall be filed with the principal or superintendent of the district, in which case said principal or superintendent shall make an abstract of the summaries of all such registers upon blanks prepared by the superintendent of public instruction, and file the same with the secretary, which shall also be preserved. The teacher, principal or superintendent, as the case may be, who is in charge of the last term of school in any school year, shall file with the secretary a summary of the statistics for the year, as shown by the summarized reports of all the terms during the year. The principal teacher of every public school, within one week after the beginning of each term, shall notify the county superintendent of the date of such beginning and the proposed length of the term. Nothing in this section shall be construed to prohibit any district board from requiring teachers, principals and superintendents to keep any additional registers and records of statistics which such board may deem desirable. Until the registers, summaries and abstracts herein above described have been filed as aforesaid, it shall be unlawful for the officers of any district to draw a warrant for the last month's salary of any teacher, principal or superintendent whose duty it is to make and file such register, summary or abstract. All blanks required in the execution of this section shall be supplied by the superintendent of public instruction to county superintendents, and by them to district secretaries. [M. A. S., 4025.]

Forfeiture of salary upon failure to make report.

1. Teachers should submit records of statistics or summaries as required, and unless they are duly filed, they can not draw the last month's salary.
2. No part of the last month's salary of a teacher should be paid until the reports required by law are made and filed according to specifications.
3. In a district where there are two schools, the district teachers should send in separate reports to the county superintendent and secretary.
4. It is the duty of every teacher to keep a daily register and at the close of each term of school, not to exceed four months, fill the summary in such register, and, in ungraded schools file the register with the secretary of the district, who shall preserve the same.

Jurisdiction of teacher.

5. A teacher has no power to suspend pupils permanently, but can suspend them temporarily until the matter can be called to the attention of the board.

6. In the absence of any rules and regulations prescribed for the government of the schools by the board of directors, it is within the power of the teacher to make such reasonable rules and regulations, and to enforce them, in the same manner, subject always to the supervision of the board of directors.

7. A teacher has a right to compel the pupils in the respective grades to take all the studies prescribed for that grade, unless rules of the school board are in existence which would excuse a pupil for valid reasons.

8. It is the teacher's right to establish any regulations for the discipline of the school that are not in conflict with the already established rules of the school board.

9. When a pupil leaves school, taking his books with him, it being understood that he has permanently left the school, his name should be immediately dropped, instead of being counted as a member for three days after his departure.

10. The teacher of a public school has control to a reasonable extent of a child during school hours and while on the school grounds. A child would not have the right to leave the school grounds after he has reached the school in the morning or to leave the grounds at noon if he did not go to his home at noon, but remained in the school house.

11. Respecting the jurisdiction of teachers over pupils on their way to and from school, it may be stated that the legal decisions in the majority of states recognize the authority of the teacher as concurrent—that is, joint and equal—with that of the parents. In some states, decisions have been made which give the school authorities some control over pupils and their conduct after they have reached home from school. However, authority over pupils when not on the school premises should be confined to protecting and promoting the welfare of the school. Such acts only as directly affect harmfully the discipline and teaching of the school should be taken cognizance of. For example, truancy, wilful tardiness, quarreling with other children, the use of indecent and profane language, etc. The teacher should seek the co-operation of the parent, if possible, in such matters, for the sake of avoiding unnecessary friction.

12. "It has been ruled that a teacher has no power to suspend pupils and that the board can not delegate to the teacher its statutory power in that matter. It would be proper to assume that the teacher has the power to temporarily suspend, long enough for the matter to be called to the attention of the district board. It would also seem proper to say that the board may act entirely upon the recommendation of the superintendent in regard to suspension and expulsion, but the act of suspension must be the act of the board."

Duties.

13. It is the duty of the teacher to teach high school studies when such studies are prescribed by the board of directors as a part of the course of study.

14. A school board has a legal right to require such qualifications of teachers as seem to them to be for the best interests of the school; *Provided*, Such qualifications do not conflict with those required by the state.

15. The authority conferred on boards of directors by the school law of Colorado (section 81), "to fix the course of study, the exercises and the kind of text books to be used," make applicable the decision of the Supreme Court of Ohio. A teacher can not safely disregard in such a matter the request of the board.

16. The teacher has a right to her hour's intermission at noon, providing she teaches the requisite six hours through the day. She is re-

quired to teach school from 9 a. m. until 4 p. m., unless the board gives her permission to finish at an earlier hour.

Special teacher.

17. The law makes no provision whereby the board of directors of a district can appropriate school money to pay a special teacher for the pupils of said district who are unable to attend the regular school.

Directors power over teacher and pupils.

18. Under the constitution and laws of this state the board of directors of any district have power to establish reasonable rules and regulations for the government of the schools under their charge, for controlling the conduct of teachers and pupils, not only while in the school room, but while going to and from the school, and such reasonable rules and regulations may be enforced by suspension, expulsion or corporal punishment, as the board of directors may determine.

Dismissal.

19. In order to make good charges of immorality or incompetency, specific acts must be declared and supported by affidavits or witnesses. If satisfied that the charges can be sustained by proof, the proper course for the board is to bring the matter to the attention of the county superintendent, with the request that he use the power granted him by law.

Physician's certificate not required.

20. There is no law requiring a teacher to have a physician's certificate. This matter is governed by the board of directors.

Unaccepted papers from another county.

21. Neither the state superintendent of public instruction nor the state board of education have the power to compel a county superintendent to recognize examination papers prepared under the supervision of the county superintendent of another county. This is a mere matter of comity and is not sanctioned by law. Therefore, whenever a teacher appeals from the refusal of a county superintendent to accept such papers and mark them and issue a certificate thereon, the board of education has no other course than to dismiss the appeal.

TRUANT SCHOOLS.

195. Truant schools to be established—in what cities.

That in cities having a population of 100,000 inhabitants or more, there shall be established, maintained and conducted within two years from the date of taking effect of this act, one or more parental or truant schools for the purpose of affording a place of confinement, discipline, instruction and maintenance of children of compulsory school age who may be committed thereto in the manner hereinafter provided. [3 Mills (Rev.), 4015h.]

196. Sites—location—furniture—fixtures—no increase of levy.

For the purpose of establishing such school or schools, sites may be purchased and buildings constructed or premises rented in the same manner as is provided for in the case of public schools in such cities; but no such school shall be located at or near any penal institution.

And it shall be the duty of the board of education to furnish such schools with such furniture, fixtures, apparatus and provisions as may be necessary for the maintenance and operation thereof; *Provided*, That nothing in this act shall be construed to permit an increase of the levy for school purposes beyond the limit fixed by law. [3 Mills (Rev.), 4015i.]

197. Officers—course of instruction.

The board of education may also employ a superintendent and all other necessary officers, agents and teachers; and shall prescribe the methods of discipline and the course of instruction; and shall exercise the same powers and perform the same duties as is prescribed by law for the management of other schools. [3 Mills (Rev.), 4015j.]

198. No religious instruction in school—religious training.

No religious instruction shall be given in such school, except such as is allowed by law to be given in public schools; but the board of education shall make suitable regulation so that the inmates may receive religious training in accordance with the belief of the parents of such children, either by allowing religious services to be held in the institution or by arranging for attendance at public service elsewhere. [3 Mills (Rev.), 4015k.]

Directors determine use of bible in school.

1. Neither the Constitution of the state nor the statutes touch directly the reading of the Bible or prayer or any other form of religious or devotional exercises, except to forbid that observance or participation shall be compulsory. The spirit of the constitution permits religious exercises in school if nothing sectarian is introduced and the trustees do not object. The laws of the different states bearing on this point differ. In Iowa "neither the electors, the board of directors nor the sub-directors can exclude the Bible from any school in the state." In Missouri, on the other hand, "directors may compel the reading of the Bible." In Dakota "the Bible may be read in school not to exceed ten minutes daily, without sectarian comment." In 1869 the Cincinnati board of education forbade the reading of the Bible in the public schools of that city. An appeal was taken to the courts, and in 1870 the Superior Court of Cincinnati decided against the board of education. In 1873 the Supreme Court of Ohio reversed this judgment and sustained the board of education. In delivering their opinion the judges "held that the management of the public schools being under the exclusive control of directors, trustees and boards of education," it rested with them solely to determine "what instruction should be given and what books should be read therein."

2. The law of Colorado does not specify concerning the reading of the Bible in the public schools, the school boards of the state having the right to specify as to what shall be the practice in the matter.

199. Habitual truant—petition to county court.

It shall be the duty of any truant officer or agent of such board of education to petition, and any reputable citizen of the city may petition the county court of the county to inquire into the case of any child of compulsory school age who is not attending school, or who has been guilty of habitual truancy, or of persistent violation of the rules of the public schools, and the petition shall also state the names, if known, of the father and mother of such child, or the survivor of them; and if neither father nor mother of such child is living, or can not be found in the county, or if their names can not be ascertained, then the name of the guardian, if there be one known, and if there be a parent living whose name can be ascertained, or a guardian, the petition shall show whether or not the father or mother or guardian consents to the commitment of such child to such parental or truant school. Such petition shall be verified by oath upon the belief of the petitioner, and upon being filed, the judge of the county court shall have such child named in the petition brought before him for the purpose of determining the application in said petition contained. But no child shall be committed to such school who has ever been convicted of any offense punishable by confinement in any penal institution. [3. Mills (Rev.), 40151.]

200. Hearing—commitment—notice to parent.

Upon the filing of such petition the clerk of the court shall issue a writ to the truancy officer of the district, directing him to bring such child before the court; if the court shall find the

material facts set forth in the petition are true, and if in the opinion of the court such child is a fit person to be committed to such parental or truant school, to be kept there until he or she arrives at the age of fourteen years, unless sooner discharged in the manner hereinafter set forth, subject to the right of appeal as in cases of misdemeanor in the county courts. Before the hearing aforesaid, notice in writing shall be given to the parent or guardian of such child, if known, of the proceedings about to be instituted, that he or she may appear and resist the same, if they so desire. [3 Mills (Rev.), 4015m.]

201. Parent or guardian pay maintenance.

It shall be the duty of the parent or guardian of any child committed to this school to pay the actual cost of board of such child and provide suitable clothing upon his or her entry into such school, and from time to time thereafter as it may be needed, upon notice in writing from the superintendent or other proper officer of the school. In case any parent or guardian shall refuse or neglect to furnish such clothing or pay for such board, the same may be provided by the board of education, and such board may have an action against such parent or guardian of said child to recover the cost of such clothing and board, with 10 per cent. additional thereto. [3 Mills (Rev.), 4015n.]

202. Board of education establish regulations for parole.

The board of education of such city shall have power to establish rules and regulations under which children committed to such parental or truant school may be allowed to return home upon parole, but to remain while upon parole in the legal custody and under control of the officer and agents of such school and subject at any time to be taken back within the enclosure of such school by the superintendent or any authorized officer of said school, except as hereinafter provided; and full power to enforce such rules and regulations to retake any such child so upon parole is hereby conferred upon said board of education. No child shall be released upon parole in less than four weeks from the time of his or her commitment, nor thereafter until the superintendent of such parental or truant school shall have become satisfied from the conduct of such child that, if paroled, he or she will attend regularly the public or private school to which he or she may be sent by his or her parents or guardians, and shall so certify to the board of education. [3 Mills (Rev.), 4015o.]

203. Monthly report—discharge—recommitment.

It shall be the duty of the principal or other person having charge of the school to which such child so released on parole may be sent, to report at least once each month to the superin-

tendent of the parental or truant school, stating whether or not such child attends school regularly, and obeys the rules and regulations of such school; and if such child so released upon parole shall be regular in his or her attendance at school, and his or her conduct as pupil shall be satisfactory for a period of one year from date, on which he or she was released upon parole, he or she shall then be finally discharged from the parental or truant school, and shall not be recommitted thereto, except upon petition as hereinbefore provided. [3 Mills (Rev.), 4015p.]

204. Violation of parole—penalty—second parole.

In case any child released from school upon parole, as hereinbefore provided, shall violate the conditions of his or her parole at any time within one year thereafter, he or she shall, upon the order of the county court, as hereinbefore provided, be taken back to such parental or truant school, and shall not be again released upon parole within the period of three months from the date of such re-entering; and if he or she shall violate the conditions of a second parole, he or she shall be recommitted to such parental or truant school, and shall not be released therefrom on parole, until he or she shall remain in such school at least one year. [3 Mills (Rev.), 4015q.]

205. Incorrigible—committed to reformatory.

In any case where a child is incorrigible and his or her influence in such school shall be detrimental to the interests of the other pupils, the board of education may authorize the superintendent or any officer of the school to represent these facts to the county court by petition; and the court shall have power to commit said child to some juvenile reformatory. [3 Mills (Rev.), 4015r.]

206. Established in cities over 25,000, under 100,000.

The boards of education in cities having a population of over 25,000, and less than 100,000, may establish, maintain and operate a parental or truant school for the purpose hereinbefore specified, and in case of the establishment of such a school, the boards of education shall have like power in their respective cities as hereinbefore expressed; *Provided*, That no board of trustees or board of education under this section shall put this law into effect until submitted to a vote of the people and adopted by a majority vote at some general election, in which case school districts in the same municipality may unite in the establishment and maintenance of one such truancy school. [3 Mills (Rev.), 4015s.]

APPENDIX

Forms for the use of School Officers and Teachers

NO. 1. OATH OF SCHOOL OFFICERS.

(See Secs. 42, 52 and 70.)

State of Colorado, }
County of }

I, do solemnly swear (or affirm) that I will faithfully perform the duties of of school district No., in the county of to the best of my skill and ability; and that I will carefully keep and preserve all records, books and other property of the said district that may come into my hands, and deliver the same to my lawful successor in office; and, further, that I will support the constitution of the United States and constitution of this state, and the laws of this state, made in pursuance hereof; so help me God.

C..... D..... [Seal]

Subscribed and sworn to before me this day of 190....

E..... F.....

Remarks—The foregoing oath should be taken before a county superintendent, notary public, justice of the peace, or some officer duly authorized by law to administer oaths. The county superintendent's oath should be filed with the county clerk within thirty days after his election, and the oath of district officers should be filed with the county superintendent within thirty days after their election.

NO. 2. COUNTY SUPERINTENDENT'S BOND.

(See Sec. 42.)

Know all men by these presents, That we, A.....
B....., C..... D....., and E.....
F....., of the county of and state of Col-

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orado, are held and firmly bound unto the people of the state of Colorado, in the full and just sum of dollars, lawful money of the United States, to which payment, well and truly to be made, we bind ourselves jointly and severally, our joint and several heirs, executors and administrators, firmly by these presents.

In witness whereof, We have hereunto set our hands and seals this day of, A. D. 190...

The condition of the foregoing obligation is such, That, whereas, the above bounden A..... B..... was, on the day of, A. D. 190..., duly elected (or appointed, if that be the case) county superintendent of schools of the county aforesaid, for the term of

Now, therefore, If the said A..... B..... shall faithfully perform all the duties of said office, according to the laws which now are, or may hereafter be in force, and shall render a just and true account of all money or other property which may come into his hands or under his control as superintendent of the schools of said county, and shall deliver over to his successor in office all moneys, books, papers and property in his hands as such county superintendent, then this obligation shall be void; otherwise it shall remain in full force.

A..... B..... [Seal]
C..... D..... [Seal]
E..... F..... [Seal]

Signed, sealed and delivered in the presence of

L..... M.....
O..... P.....

Remarks—The penal sum named in the bond is to be fixed by the board of county commissioners, but in no case shall the sum be less than \$2,000.

NO. 3. PETITION OF PARENTS AND GUARDIANS WHO DESIRE TO
FORM A NEW DISTRICT FROM PARTS OF ONE
OR MORE OLD ONES.

(See Sec. 85.)

To.....,

County Superintendent of Schools, County:

We, the undersigned, residents of district (or districts) No....., respectfully represent that we desire to form a new district, with boundaries as follows, viz.: [Here describe the proposed bounds, following government lines as far as practicable.]

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We further declare that, collectively, we are the parents or guardians of at least ten children of school age, and we hereby certify that the list of names of persons of school age which is attached to and made a part of this petition, is a correct list of all such persons residing in the proposed district.

Remarks—Give postoffice address of some or all signers. The list of children should be carefully filled up by some person interested in the change before the paper is circulated for signatures.

NO. 4. ORDER DIRECTING A PETITIONER TO GIVE NOTICE OF
MEETING TO FORM NEW DISTRICT.

(See Sec. 85.)

Office of
County Superintendent of Schools,
..... County, Colorado.

T₂ C₆₀ and Related Compounds

You are hereby notified that I have received a petition signed by yourself and others, informing me that you desire to form a new school district of the territory described as follows, to-wit: [Description as above.] In order that the wishes of the residents of said proposed district may be ascertained, you

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will please notify, by personal service as far as convenient, each elector residing therein, and also post notices in three public places (one of which shall be the place of meeting) that such a petition has been made, and that a meeting will be held, naming the time and place of such meeting, to determine whether such district shall be formed. You will, also, please notify me by mail of the time and place of such meeting.

Respectfully yours,

.....
County Superintendent.

Remarks—In the formation of a new district, every step should be strictly in accordance with the law.

The notices posted should contain a clear description of the proposed district.

NO. 5. NOTICE FOR A MEETING TO ORGANIZE A NEW DISTRICT.

SCHOOL DISTRICT MEETING.

To all whom it may concern:

Whereas, It is proposed to organize a new school district in that part of County described as follows, to-wit: [Description.] Notice is hereby given, as per direction of the county superintendent of public schools of said county, that a meeting of the electors residing within the boundaries aforesaid will be held at, on the day of, A. D. 190..., at o'clock, m., when a vote will be taken by ballot, on the question whether or not the proposed district shall be organized. If the vote shall be in the affirmative, a board of directors will then be elected.

By order of County Superintendent of Schools.

C..... D.....

Dated, 190...

Remarks—After the organization, a copy of the notice and of the proceedings of the meeting should be sent to the county superintendent.

The ballot box should be kept open long enough to give every elector an opportunity to vote—never less than three hours.

If the proceedings were in accordance with the law, the county superintendent should number and record the district, and notify the secretary of his action.

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NO. 6. BOND TO BE GIVEN BY THE SECRETARY OR TREASURER OF EACH SCHOOL DISTRICT.

(See Sec. 70.)

State of Colorado, }
County of }

Know all men by these presents, That we, A.....
B....., principal, and C....., D.....,
and E....., F....., sureties, are held and firmly
bound unto School District No., in the County
of state of Colorado, in the full sum
of dollars, lawful money of the United
States, to which payment, well and truly to be made, we bind
ourselves jointly and severally, our joint and several heirs, exec-
utors and administrators, firmly by these presents.

In witness whereof, We have hereunto set our hands and
seals this day of A. D.
190...

The condition of the foregoing obligation is such, That,
whereas, the above bounden A..... B..... was,
on the day of A. D. 190...,
duly elected (or appointed) Secretary (or Treasurer) of School
District No., in the county of and state
of Colorado, for the term of

Now, therefore, If the said A..... and B.....
shall faithfully discharge all the duties of said office, according
to the laws which now are, or which may hereafter be in force,
and shall faithfully apply all moneys which may come into his
hands by virtue of said office, and shall deliver over to his suc-
cessor in office all moneys, books, papers and property in his
hands as said officer, within ten days after the same shall have
been demanded by such successor, then this obligation shall be
void; otherwise it shall remain in full force.

A..... B..... [Seal]
C..... D..... [Seal]
E..... F..... [Seal]

Signed, sealed and delivered in presence of

L..... M.....
X..... Y.....

Remarks—The penal sum named in the above bond should be at
least twice the amount likely to be in the hands of the officer at any one
time during his term of office.

The bond must be filed with the county superintendent.

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NO. 7. REQUEST TO BE MADE BY TEN LEGAL VOTERS OF A DISTRICT TO THE BOARD OF DIRECTORS, FOR THE CALLING OF A SPECIAL MEETING.

(See Sec. 72.)

To the Board of Directors of School District No....., in County, Colorado:

The undersigned, legal voters of school district No....., in County, Colorado, request you to call a special meeting of said district for the purpose of.....

Dated this..... day of....., A. D. 190...

NAME.

NAME.

NO. 8. NOTICE OF SPECIAL MEETING.

(See Secs. 72 and 98.)

Notice—A special meeting of the legal voters of School District No....., in the county of....., called on the written request of ten legal voters (or called by the district board, as the case may be), will be held at (the district school house or other place) on the..... day of....., 190..., at o'clock (p. m.), for the purpose of (here specify every item of business that is to be brought before the meeting).

A..... B.....

Posted....., 190...

Secretary.

Remarks—This notice should be posted at least twenty days previous to the meeting, in three separate public places within the district, and a copy furnished to the teachers of each school in the district, to be read once in the presence of the pupils.

Business not specified in this notice can never be lawfully transacted at such special meeting.

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NO. 9. NOTICE OF ANNUAL MEETING.

(See Sec. 92.)

Notice is hereby given, That the annual meeting of the legal voters of school district No., in the county of, will be held (at the school house or other place) on Monday, the day of May, 190..., for the purpose of electing (one or more) directors, as provided by law.

The ballot box will be opened at the hour of m., and closed at the hour of m., and at m. the meeting will be organized for the transaction of any other business pertaining to school interests that may be brought before it.

.....
Secretary of School District No.,
County of.

Posted April 190...

Remarks—The secretary of the district should give at least six days' previous notice of the regular meetings of the district (see section 92), and should post the notices and furnish a copy to the teachers in the same manner as for special meetings.

NO. 10. RECORDING PROCEEDINGS OF A MEETING HELD FOR THE PURPOSE OF ORGANIZING A NEW SCHOOL DISTRICT.

(See Secs. 85 and 86.)

..... 190...

On the day of 190..., a petition, of which the following is a true copy, was made to X. Y., county superintendent of public schools of County, to-wit: (Here copy the petition.) Whereupon the said county superintendent issued an order, of which the following is a copy, to-wit: (Here insert copy of the order.) In obedience to which order the following notice was posted, as required by section 85 of the school law, to-wit: (Here insert a copy of the notice.)

In pursuance of the above notice, the electors of the proposed new school district assembled at at o'clock ... m. The meeting was called to order by A. B., and, on motion, C. D. was elected chairman, and E. F. secretary. On motion, G. H. was elected to act with the chairman and secretary as judges of election. On motion of K. L., the electors began to vote by ballot upon the question of forming a new school dis-

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trict. The ballot box remained open for the reception of votes from o'clock ... m., until o'clock ... m. Upon counting the ballots it was found that ballots were cast, of which were in favor of the organization and against.

On motion of J. K., the meeting proceeded to elect, by ballot, a board of directors. The following are the names of the persons voting: (Here record the names of persons voting.) The ballot resulted in the election of C. D., president; E. F., secretary, and G. H., treasurer, etc., etc.

On motion of C. D. the meeting adjourned *sine die*.

C. D.,
Chairman.

Attest: E. F.,
Secretary.

Remarks—A copy of the proceedings should be sent to the county superintendent, together with the certificate of some elector, that the notice of the meeting was posted in three public places, as required by law. The person who posted the notice should sign the certificate of posting.

If the district is formed from unorganized territory, the secretary must send with this report a certified list of the names of persons of school age residing in the district.

A permanent record of the proceedings should be made in the secretary's books.

NO. 11. RECORDING PROCEEDINGS OF A REGULAR OR SPECIAL MEETING OF THE DISTRICT.

The regular (or special, as the case may be) meeting of school district No., in county, Colorado, convened at, at o'clock (p. m.), pursuant to previous notice given by the district secretary.

The meeting was called to order by the president.

The secretary being absent, on motion of Mr. A., C. D. was elected secretary pro tem.

Mr. S. moved that a tax of two mills on the dollar be voted for the purpose of building a school house for the district.

Mr. F. moved to amend by striking out "two" and inserting "five," which was agreed to, and the motion as amended was decided in the affirmative.

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Mr. D. moved that a tax of one mill on the dollar be levied for the purpose of defraying the contingent expenses of the district.

Motion carried.

On motion of Mr. F. the meeting adjourned *sine die*.

L. M.,
President.

Attest: C. D.,
Secretary.

Remarks—Forms 10 and 11 are given with a view of assisting the inexperienced. Persons familiar with such duties may vary the form, provided that the proceedings are accurately recorded.

Much depends on the record of the proceedings of the district meeting; hence it should be correctly made and carefully preserved.

Under the law, the voting of a tax for any purpose must be, in each year, "On or before the day designated by law for the county commissioners to levy the requisite taxes for the then ensuing year," and school boards certify the same to the county commissioners.

NO. 12. COUNTY SUPERINTENDENT'S NOTICE OF APPORTIONMENT TO THE DISTRICT SECRETARY.

Office of
County Superintendent of Schools,
..... County, Colorado.

To A. B.,
Secretary of School District No.,
In County:

You are hereby notified that I have this day apportioned to your district the sum of dollars, of the general school fund, which amount has been placed to the credit of your district on the books of the county treasurer.

.....
County Superintendent.

Remarks—This notice should be sent immediately after each apportionment.

APPENDIX—FORMS.

NO. 13. FORM OF TEACHER'S CONTRACT WITH DISTRICT BOARD.

TEACHER'S CONTRACT.

STATE OF COLORADO.

Date.....

M.....

At a meeting of the board of directors, held this day of 190..., you were appointed to teach in the public schools of District No..... for the terms beginning and ending with the school month of, at a salary of dollars (\$.....) per school month, payable monthly in warrants on the county treasurer as provided for in sections 73 and 62 school law.

The conditions of this appointment are, that you will faithfully observe the rules and regulations adopted by the Board for the government of the public schools of this district; that you will exercise due diligence in the preservation of school buildings, grounds, furniture, apparatus, books and other school property; that you will make promptly and correctly all reports of the school as required by the county superintendent; that you will keep a correct register and file the same with the president or secretary of the board or the principal of the school, at the close of the school year as required in section 194 school law; that you will hold a legal certificate of the grade, issued or approved by the county superintendent of County. The board reserves the right to increase or diminish the number of months of school that shall be held during the terms for which you are employed, by giving at least fifteen days' notice.

By the President,

Attest:, Secretary.

I hereby accept the appointment to teach in the public schools of District No..... County, on the conditions above stated.

Respectfully,

....., Teacher.

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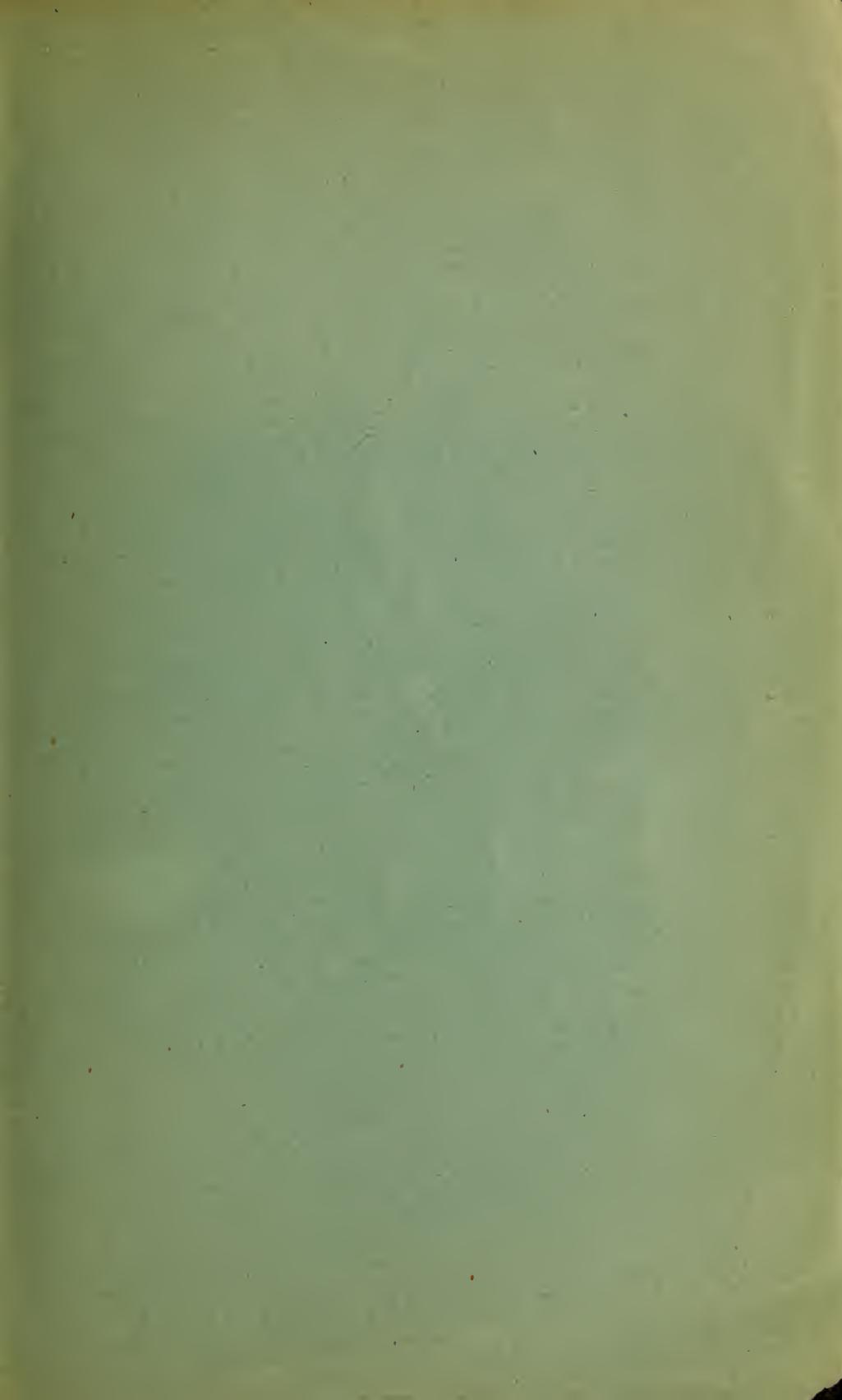
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